

# JUDAISM

## RELIGIOUS FREEDOM AND THE AMERICAN COMMUNITY

Leo Pfeffer

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## SPINOZA'S ONSLAUGHT ON JUDAISM

Isaac Franck

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JUDAISM, conceived as a free and non-partisan organ, is dedicated to the creative discussion and exposition of the religious, moral and philosophical concepts of Judaism and their relevance to the problems of modern society. Through an exploration of the meaning and needs of the Jewish experience, it hopes to widen the channels of communication between Jews and to affirm Jewish verity and vitality to the world at large.

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# JUDAISM

A QUARTERLY JOURNAL

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## STATEMENT OF PURPOSE

In increasing measure, modern men are turning again to the quest for a worldview on the issues that are timeless—the meaning of life, the challenge of death, the purpose of suffering, the significance of the individual, his relation to society, and the goal of history. In order to advance this enterprise of spiritual discovery of our time this Journal has been projected. It will be primarily concerned with the philosophy, ethics, and religion of Judaism as a factor in the contemporary world . . .

We are committed to the proposition that Judaism has positive value today for Jews and for the world . . . At the same time, we disassociate ourselves from the dangerous tendency toward the hardening of party lines on the contemporary Jewish scene . . . The members of the Board of Editors belong to every school of Jewish life or to none. The trends popularly referred to as Orthodox, Conservatism, Reform, Reconstructionism, as well as others that as yet have no specific names, have their advocates among us, though no institution or movement is officially represented . . . Undoubtedly, our differences will find expression in these pages, but we shall be at one in opposing the dogmatism which takes for granted that one's own particular standpoint has a monopoly on truth and the authoritarianism which would suppress any contrary point of view.

*Judaism* will be dedicated to the quest for truth in the spirit of freedom. Our columns will be open to anyone who has something significant to say and the ability to say it well. New and unconventional interpretations, whatever their standpoint, will be welcomed from every source, for we share the conviction of the Talmud that "Both these and the others are the words of the living God." *From the introductory article by Robert Gordis, "Toward a Renaissance of Judaism" in Vol. I, No. 1.*



## *An Urgent Message*

A word to our readers—help! No, there is no danger to the survival of JUDAISM—and, hopefully, of Judaism itself—that prompts this heading. But the call for help is genuine nevertheless.

Our office receives many flattering comments on individual articles appearing in JUDAISM and on the generally high level maintained by our journal as a whole through the years. Material in our pages is cited regularly in books, papers and magazines throughout the world.

Particularly because the area of concern of JUDAISM is Jewish religion, philosophy and ethics, and because we eschew sensationalism and publicity-seeking, we were pleased to read a recent comment by a popular columnist who wrote that JUDAISM “is not afraid to tackle controversial issues of the day.”

We have steadfastly kept before us the principal purposes of the journal. The first is to afford a *forum of expression* for scholars, writers and thinkers, famous or unknown, young or old, who have something significant to say and can do so with clarity and urbanity. The second is to maintain the journal as a non-partisan “supra-denominational” organ, a *free forum* for the interchange of ideas and for the cross-fertilization of views among the various schools of thought in Jewish and general life today. I believe that on both counts JUDAISM may fairly claim to be unique in this age of mounting polarization and the break-down of genuine communication.

This ongoing achievement represents a four-fold partnership. It is true that the budget of JUDAISM is miniscule. Nevertheless, the loyalty of the American Jewish Congress, which has now been joined by the World Jewish Congress in sponsoring the journal and underwriting its deficit, is a *sine qua non* for its existence.

The second element is the efficiency and dedication of our tiny staff. I have enjoyed the wholehearted cooperation of our Managing Editor, Dr. Ruth Waxman, and our hardworking secretary, Mrs. Trudy Kramberg. We work together in reading the abundant material coming to our desk, evaluating it, conferring with the authors on their papers, publishing and proofreading each issue, and getting it out on time.

The third factor has been the generosity of spirit displayed by our writers. They have sent us their contributions with no material consideration in mind. Like the Editor's, their role in JUDAISM is an act of love for the Jewish heritage and the Jewish people. In addition, the profusion of material reaching us has necessitated great patience and forbearance on the part of our authors, who often have to wait a year or more before their contributions can see the light.

Finally, the partnership of our readers is most crucial. It is a source of gratification to note that our subscription list has been growing steadily and is now much higher than it was a few years ago. It could be increased

substantially if we undertook an active promotion campaign. Such campaigns, however, are very expensive and we simply lack the funds. It is here that I appeal for help to our loyal readers.

I ask each subscriber of JUDAISM to secure at least one new one by speaking of the journal to friends, colleagues, librarians, and faculty members of colleges and universities, and urging them to become subscribers. If each reader remembers that the survival of JUDAISM is essentially an act of loyalty and faith, it should be easy for him to add one or more names to our list.

Let us enlarge the sphere of usefulness and influence of JUDAISM. Let us preserve the voice of reason and freedom of thought in the Jewish community!

We hope to publish a Roll of Honor of those of our friends who follow through on this suggestion and bring a new subscriber into the fold. As the Rabbis observe, "Greater is he who influences his neighbor to perform a good deed than he who merely does it himself." May we hear from you, please?

ROBERT GORDIS  
*Editor*

## *The First Reader*

### *That Important First Amendment*

Popular wisdom has it that there is a strong conservative current in American society today. Whether or not this is true, it is clear that the legislatures and the courts, under pressure from militant sectarianism, are increasingly restricting the area of freedom. The fundamental American concept of religious freedom has also been subjected to attack, and Jews in particular have been urged to modify their hitherto staunch attachment to this doctrine for the sake of their own survival.

In "Religious Freedom and the American Community," *Leo Pfeffer* argues strongly that the highest interests of American Judaism, particularly from the long-term point of view, require the vigilant defense of the traditional doctrine of the separation of church and state that is enshrined in the First Amendment.

### *Who Sits Where?*

In the emerging pattern of Jewish religious life in America, the outstanding symbol of contemporary Orthodoxy is the *mehizah*, the physical separation of the women's section from the main sanctuary by a partition. Not only does its presence serve as a palpable dividing line between Orthodoxy and Conservatism, but its height is a measuring-rod of the degree of Orthodoxy within congregations carrying that designation. The role of the *mehizah* in Jewish law is analyzed and the entire issue is discussed by *Alan J. Yuter* in his paper, "Mehizah, Midrash and Modernity: A Study in Religious Rhetoric."

### *The Imperilled Family*

That the changes in the contemporary family have had a marked effect on the Jewish one is clear to any observer. In her paper, "The Impact of the Women's Movement on the Jewish Family," *Gladys Rosen* surveys the nature of these changes and the perils that they pose for Jewish biological and psychological survival. She suggests several major lines of action that the Jewish community should adopt in order to minimize the perils and to maximize the potentials for Jewish life inherent in this phase of the sexual revolution.

*What Language Do You Speak?*

Recently, a great deal of scientific research has focused on the intellectual endowment of animals, many of whom display hitherto unsuspected capacities for thought and communication. The dolphin is perhaps the best example. The implications for the unity of all creation are significant, not only for the philosopher and the theologian, but for every thoughtful man and woman.

In his paper, "Speaking of Man and Beast," *Basil Herring* discusses some implications of the research in these areas and calls attention to adumbrations of the theme in Jewish traditional literature. This may be another illustration of the truth expressed by the Sages, "Turn the Torah over and over, for everything is in it."

*Spinoza on the Jews*

Two years ago, the world of scholarship and thought marked the 300th anniversary of the death of Baruch Spinoza, who was born in 1632 and died at the age of 45 in 1677. By universal consent, Spinoza is recognized as one of the greatest philosophers of all times. His background and temperament reflected outstanding characteristics of the Jewish tradition and life-style in which he had been raised and the values which he had absorbed in his youth. On the other hand, many aspects of his thought were antagonistic to Judaism and led to his formal excommunication by the Amsterdam Jewish community.

*Isaac Franck* examines this ambivalence in the life and work of one of the most gifted sons of the Jewish people. The first section of his treatment of the subject, "Spinoza's Onslaught on Judaism," appears in the current issue of JUDAISM. The Summer 1979 issue will contain the concluding section under the title "Was Spinoza a Jewish Philosopher?"

*A Renaissance Explanation of Jewish Ritual*

The most interesting periods in the history of culture—and the most fruitful and productive—tend to be those in which cultures and societies meet, clashing, reacting, affecting and enriching each other. That is why, generally speaking, cities have been the centers of creative development.

A case in point is afforded by the Renaissance when, in the 14th, 15th and 16th centuries, Jews encountered the many-faceted activities of life in Italian cities. The result was the large number of Jewish humanists who, like their Christian counterparts, were men who demonstrated an unbounded enthusiasm for individual expression and wordly experience. Beginning with the poet Immanuel of Rome (1261–1328) there followed, in succession, creative personalities like Elijah Del Medigo, Hebrew mentor of Pico della Mirandola, Johanan Alemanno, philosophic commen-



tator on *The Song of Songs*, Leone Ebreo, physician-philosopher and son of Don Isaac Abrabanel, and Salomone de'Rossi, composer of synagogal music. Leone da Modena (1571–1648) was still another one of those Renaissance personages who made his contribution to arts and letters during this extraordinarily creative period in European history. Both he and an interesting volume of his are the subject of a paper, "Leone da Modena's *Riti Ebraici*," by Arthur A. Chiel.

### *There is Much in a Name*

That religious Orthodoxy is generally allied with right-wing social, economic and political positions is a fact of life for which evidence is available at every hand. But what about a movement that calls itself Conservative Judaism?

In a wide-ranging paper, "Is Conservative Judaism—Conservative?" Elliot B. Gertel both defends the movement against its critics from without and criticizes it from within on the basis of a rather unusual approach. His point of departure is the name of the movement, "Conservative Judaism." The term has generally been explained as the result of historical accident or even dismissed as unfortunate—as is the case with the names both of "Reform" and "Orthodoxy."

Gertel insists that the name is highly significant. He argues that many of the problems confronting the movement derive from its failure to spell out the true implications of Conservatism. The author's paradigm of Conservatism is based on Russell Kirk, the chief ideologue of American social and political Conservatism, who, in turn, derives from the eighteenth-century English politician, Edmund Burke.

Gertel calls upon Conservative Judaism to espouse "true Conservatism" in all areas of life. Thus, it will replenish both its vigor and sense of direction, while preserving its openness to a variety of outlooks and its opposition to monolithic thought.

This provocative paper may be viewed as a pendant to the "Symposium on Conservative Judaism" that we published in our Summer 1977 issue.

### *The Views of a French-Jewish Philosopher*

One of the most distinguished philosophers of our time, all too little known outside of France, is Emmanuel Levinas. In an effort to bring him to the attention of English speaking readers, JUDAISM published a paper, some time ago, entitled "The Philosophy of Emmanuel Levinas" (Summer, 1970). Now, Helen A. Stephenson and Richard I. Sugarman have prepared a translation of one of Levinas' significant treatments of Jewish values, "To Love The Torah More Than God," and Mr. Sugarman has added a commentary.

*Education Remains Paramount*

There is an all-but-universal recognition that the key to Jewish survival lies in a revitalized Jewish education. What shall be the content and focus of this Jewish education? What shall be its underlying philosophy? How shall it be governed and financed? To these questions *Zalmen Slesinger* addresses himself in his paper, "Education for Jewish Identity and Jewish Continuity in the Open Society."

*The Remarkable German-Jewish Experience.*

The central arena of modern Jewish history in the century and a half between the French Revolution and the Nuremburg Laws was the German culture-sphere. Here, every significant reaction of modern Jews to their environment, whether it be capitulation, adjustment or rejection, found expression and left abundant documentation behind. Every creative moment in Jewish life during the past two centuries came into being and staked out its claim for allegiance. It is no wonder, therefore, that the German-Jewish experience continues to attract interest among scholars, thinkers and generally knowledgeable observers of Jews and Judaism.

In his review-essay, "German Jewry Was Different," *Alfred Jospe* presents a discussion and analysis of Peter Gay's volume, *Freud, Jews and Other Germans*. Both the book and the review are significant contributions to this on-going task of seeking to understand the richly textured German-Jewish experience which, often painted as a monochrome by the myth-makers of today, has much to teach with regard to tomorrow.

R.G.

# *Religious Freedom and the American Community\**

LEO PFEFFER

IT IS PROBABLE THAT FEW, IF ANY, NATIONS of the world are more hospitable to the free exercise of religion on the part of Jews and other religious minorities than is the United States. This freedom, however, does not mean that no American Jew is subject to governmentally sanctioned or, at least, governmentally tolerated discrimination because of his religion. Nor does it mean that there are no governmental restraints on the exercise of religion which many Jews may consider to be unjustified. Realistically, full religious freedom can only be pursued as a goal and cannot be expected in this imperfect world. If perfection could be achieved here there would be no need for an *olam haba*. As Robert Browning's Andrea del Sarto put it, "A man's reach should exceed his grasp, or what's a heaven for?"

Restraints on the free exercise of religion still do exist, even in the United States. Some affect Jews as Jews; many affect persons with other religious beliefs such as the Black Muslims, Jehovah's Witnesses, Seventh Day Adventists, members of the World Wide Church of God and other small groups. Indeed, they go further than that; they encompass, as well, many whose religious convictions not merely tolerate but, in fact, impel them to further measures such as contraception and abortion to prevent tragic overpopulation and the spread of suffering, hunger and poverty. Of one thing I feel certain: intolerance is contagious, and a threat to the religious freedom of any group, including those whose beliefs are repugnant to us, is a threat to us as Jews and commands our concern. Effective implementation of that concern requires an understanding of what religious freedom means in our constitutional democracy, and it is to this that my article is addressed.

What I seek to do is to relate briefly how the concept of religious freedom became part of our constitutional heritage; how it has been interpreted and applied by the courts, especially the Supreme Court, and, finally, how it affects one particular instance of current concern in the United States, that of abortion.

The paper, as originally prepared, included consideration of a num-

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\* Adopted from a paper prepared for delivery at the most recent Biennial General Assembly, Union of American Hebrew Congregations, San Francisco, California.

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ber of other instances in which the free exercise of religion by American Jews is, or may be, restricted. Specifically considered were discrimination against Sabbath observers in employment, public and private, the inability of observant Jews to take school or civil service examinations scheduled for the Sabbath or religious holidays, compulsory attendance at chapel at military and other Federally financed academies, the availability of kosher food in hospitals and penitentiaries, and the fight of Jews in prisons (fortunately, they are few) to wear *tallit* and *tefillin* at appropriate times, have access to religious books and materials (e.g., *etrog* and *lulav*), observe holy days through fasting and prayer and, to the extent practicable, abstain from work. Because of space limitations that part of the paper is not included here.

### *The Origin of Free Exercise*

Many factors in our country combined to produce the principle of religious freedom. Of these, two were the most significant; one was practical, the other ideological. The first resulted from the historical accident that, unlike the case of Latin America, those who originally settled here were not religiously homogeneous. Some, though a minority, came primarily because they could not exercise their full freedom of religion in England. Others came for less idealistic reasons, but, nevertheless, wished to maintain their religious integrity and resisted compulsory adherence to an established religion, not merely Roman Catholicism, but this or that sect of Protestantism as well.

Ironically, those who came for idealistic reasons proved most hostile to the concept of full freedom of religion to others. The Calvinists or Puritans settled in the Massachusetts Bay Colony because they could not practice their faith freely in England. But it was they who were responsible, not only for the persecution and exile of many religious nonconformists, but, also, for the only instances on our shores of execution for heresy—those of two Quakers who resided in their midst. One is reminded of Martin Luther who, when he was a hunted heretic, asserted with passion, “I cry aloud on behalf of liberty and conscience,” but, when he later made an effective alliance with the secular powers, spoke in a different tone. “Heretics,” he said, “are not to be disputed with, but to be condemned unheard.” (Lest one suppose that all of this is merely ancient history, it should be noted that a substantial part of the restraints on non-Orthodox Judaism in Israel comes from those who themselves are refugees or whose parents and grandparents were refugees from persecution and discrimination in Nazi-dominated Europe or in Tsarist or Soviet Russia.)

The ideological factor in the development of the American concept of religious freedom was the deism and rationalism—inherited from Locke, Rousseau, Voltaire and others—that permeated the states in the

post-Revolutionary War decade. Its most noted adherents were such great founders of our nation's political system as Franklin, Jefferson, Paine and Madison. According to their philosophy, government had only such powers as were entrusted to it by the people, and among these was the protection of life, liberty and property. Jurisdiction over religion, however, was never entrusted to government and, indeed, being inalienable, could not be entrusted to it. Hence, when the state acted to restrain the free exercise of religion or to establish one or more religions as the only acceptable faiths of the people, it sought to usurp a power not granted to it by the people, thus violating a higher law, and its effort to do so could rightfully be resisted by the people. This philosophy was summarized by Tom Paine in *Common Sense*:

As to religion, I hold it to be the indispensable duty of government to protect all conscientious professors thereof, and I know of no other business which government hath to do therewith.

Put simply, what Paine said was that the state had an obligation to protect religious freedom, but, otherwise, must keep its hands off religion, whether to promote it or to inhibit it. Fifteen years later, this dual mandate became the opening words of the American Bill of Rights, that is, the first ten amendments to the Constitution. "Congress," the First Amendment states, "shall make no law respecting an establishment of religion or prohibiting the free exercise thereof." The Amendment thus guarantees both the freedom of religion and its non-establishment, or, in more common terms, the separation of church and state.

### *The Meaning of Free Exercise*

It is quite obvious that, although the Constitution declares that Congress (and, today, the states as well) shall make no law prohibiting the free exercise of religion, this mandate cannot be applied in literal terms in all cases. The First Amendment also forbids laws abridging freedom of speech, but we all know that it cannot be interpreted to immunize from prosecution a person who falsely cries "fire" in a crowded theatre. Similarly, the courts have consistently held that Christian Scientists, or others who believe in faith healing, and Jehovah's Witnesses, whose religious beliefs forbid blood transfusions, may be compelled by law to allow their children to receive medical treatment and blood transfusions when life or health requires it. The Free Exercise Clause, the courts have held, may allow an adult to sacrifice himself to his religion but it does not allow him to sacrifice his children.

For this reason, the Supreme Court has long held that, while a parent may arrange to have his children receive their secular education in a parochial school or a yeshivah, he may not claim complete exemption from compulsory school attendance laws on the ground that his religious



beliefs forbid all secular education. This principle was applied in the 1951 case of *People v. Donner*, which involved the prosecution of some hasidic Jewish parents who sent their children to a yeshivah where they received instruction only in Torah and Talmud. The defendants claimed that all the secular education which their children needed, or would ever need, could be received through these studies and that, under Jewish religious law, it was not permissible for them to receive a secular education from any other source. The trial court held that this argument did not constitute a valid defense, and its decision was affirmed by the Supreme Court.

If, then, the Free Exercise Clause does not guarantee absolute freedom of religion, what does it guarantee? In its earlier cases, the Supreme Court borrowed what is generally known as "the clear and present danger test" from the decisions defining freedom of speech and press. Under these decisions, the government could punish speech which presented a clear and present danger to some paramount societal interest, such as falsely crying fire in a crowded theatre or, during wartime, publishing the hours of departure and the routes of American vessels. In more recent decisions the Court has, perhaps, gone even further in assuring religious freedom. When a law or other act of government is challenged as a violation of the Free Exercise Clause, the burden, the Court says, is on the government to establish that it has a compelling interest which justifies abridgement of the citizen's right to the free exercise of religion. On the basis of this test, in the 1963 case of *Sherbert v. Verner*, the Court held that a state could not deny unemployment insurance benefits to persons who, observing Saturday as their holy day of rest, would not accept positions which required them to work on their Sabbath. The state, the Court held, had not established a compelling interest which would justify infringement upon the Free Exercise rights of the Sabbath-observers.

The liberality of the Court in applying the Free Exercise guaranty was again manifested in the 1972 case of *Wisconsin v. Yoder*. Although, in the *Donner* case, it had held that hasidic parents had no constitutional right to deprive their children of a basic secular education, in the *Yoder* case it held that Amish (and, hence, so, too, hasidic) parents had a constitutional right to refuse, on religious grounds, to send their children to high schools after they had completed the elementary school grades. Eight years of schooling, the Court held, were sufficient to satisfy the state's interest in the secular education of children. In the 1977 case of *Trans World Air Lines v. Hardison*, the Court appears to have retreated somewhat from the liberalism towards the Free Exercise Clause that is expressed in the *Donner*, *Sherbert* and *Yoder* cases. It held that a company can lawfully dismiss or refuse to hire persons who refuse to work on their Sabbath if the employer's business would thereby suffer more than minimal hardship.

*The Meaning of the Establishment Clause*

It was not until 1947 that the Supreme Court found it necessary to define what the Establishment Clause means. In upholding, in *Everson v. Board of Education*, the constitutionality of a law providing for publicly-funded transportation of pupils to parochial schools the Court said:

The "establishment of religion" clause of the First Amendment means at least this. Neither a State nor the Federal Government can set up a church. Neither can pass laws which aid one religion, aid all religions, or prefer one religion over another. Neither can force nor influence a person to go to or remain away from church against his will or force him to profess a belief or disbelief in any religion. No person can be punished for entertaining or professing religious beliefs or disbeliefs, for church attendance or non-attendance. No tax in any amount, large or small, can be levied to support any religious activities or institutions, whatever they may be called, or whatever form they may adopt to teach or practice religion. Neither a State nor the Federal Government can, openly or secretly, participate in the affairs of any religious organizations or groups and vice versa. In the words of Jefferson, the clause against establishment of religion by law was intended to erect "a wall of separation between church and state."

The *Everson* no-aid test was quoted and applied in several later decisions, but, in the more recent cases, the Court has relied on a somewhat differently worded test. In its most recent decision, involving aid to parochial schools (*Wolman v. Walters*, decided in 1977), it applied what has become known as the purpose-effect-entanglement test. The Court said:

In order to pass muster, a statute must have a secular legislative purpose, must have a principal or primary effect that neither advances nor inhibits religion, and must not foster an excessive government entanglement with religion.

*Conflict Between Free Exercise and Establishment*

What happens when there is a conflict between the Free Exercise and Establishment Clauses? Which shall take precedence? The argument has often been made that, unless the state finances parochial schools, parents who cannot afford to pay but are commanded by their religious principles to send their children to these schools, are thereby deprived of their rights under the Free Exercise Clause, which must take precedence over the Establishment Clause. The acceptance of this contention would logically lead to rather unexpected consequences. Under well established constitutional principles, government may not pass judgment on the validity of any religious belief, but must treat all equally. Hence, it would follow that, since all the states, to a greater or lesser extent, provide free hospital and medical services to those who cannot afford to pay, they must, likewise, pay the cost of faith healing or, similarly, must provide unfluoridated water to those whose religious conscience forbids fluoridation. It is no

answer that these situations are different in that secular education is required by law whereas acceptance of medical treatment is not. No state requires an adult to undertake either a secular education or treatment for his ills; but all states require parents to obtain both for their children. It is for this reason, among others, that the courts have consistently refused to accept the argument that the Free Exercise Clause impels the states to pay for parochial school education, any more than for faithhealing or unfluoridated water.

My own view is that the conflict between Free Exercise and Establishment is more apparent than real, and that a law which passes or fails under one test will do as much under the other. I do not believe that those who wrote the First Amendment saw any basic conflict between the two clauses. They conceived of separation and freedom as a unitary principle. To them, separation guaranteed freedom and freedom required separation. The experience in communist countries which claim separation, and, at the same time, suppress religion, does not contradict this assertion, since true separation requires neutrality in respect to religion, not hostility. In the *Everson* and other cases, the Court stated that the Establishment Clause (and not only the Free Exercise Clause) forbids laws which force persons to go to, or remain away from, church or to profess any religious beliefs or disbeliefs. In the later cases, the Court said that the Establishment Clause barred laws whose primary effect is to inhibit religion as well as those whose purpose is to advance it. To me, a true understanding of the First Amendment impels the conclusion that the Establishment and Free Exercise Clauses are two sides of the same coin. Candor, however, requires me to admit that the Supreme Court does not agree with me, and has indicated that there may be cases in which the Free Exercise Clause commands that which the Establishment Clause forbids, or vice versa.

Tax exemption for houses of worship is a good example. In *Walz v. Tax Commission*, the Supreme Court, in 1970, held that granting tax exemption to houses of worship did not violate the Establishment Clause. In that case, all the major religious groups, the Protestant National Council of Churches, the Catholic Church, and the Synagogue Council of America, which represents synagogal and rabbinic Reform, Conservative and Orthodox Judaism, filed friends-of-the-court briefs urging a decision to the effect that, not only was it permissible for the government to exempt houses of worship from real estate taxes, but that to refuse to do so would violate the congregation's free exercise of religion. The rationale of this claim is that the power to tax is the power to destroy and, since the Free Exercise Clause forbids the government to destroy houses of worship, it likewise forbids it to tax them.

The Supreme Court did not accept that proposition, although it did not reject it either. It is doubtful that the Court will accept it, and it is questionable that it should do so. Revenues from real estate taxation are

used to finance police, fire, safety and similar protection for houses of worship and, in some communities, also to provide them with water from the municipal reservoirs. If the churches could not constitutionally be required to pay for these services in the form of real estate taxes, the result would be that Jews would be compelled to pay for the maintenance of Christian churches and atheists to support all houses of worship, a result difficult to justify under a constitution which forbids taxation for religious purposes.

It should be noted that, recently, in New York, homeowners in a number of communities have received ordination as ministers from an individual who formed his one-man divinity institution and confers mail order ordination on all who write for it. These newly ordained ministers recite prayers for themselves and all who come to their homes on Sunday morning (few do) and claim real estate tax exemption for their erstwhile homes, which have now become churches for regular worship every Sunday morning between 9 and 9:15 A.M. The controversy is now in the courts and there is little doubt that they will find a way to adjudge that these home-grown ministers must pay taxes like all other home owners. This controversy is noted here because the device resorted to by them came about by reason of the fact that, in their communities, large tracts of privately owned land were acquired by tax-exempt institutions and were thus removed from the tax-rolls, causing an inordinate increase in the tax burden of the home owners in those counties.

The First Amendment does not indicate on its face which mandate is superior, the one requiring separation of church and state or the one which secures freedom of religion. Most Americans, and most Jews, would be of the opinion that where there is a true conflict between religious freedom and separation of church and state, freedom should be preferred to separation. There is, it should be noted, considerable freedom of religion in England and most other West European countries though there is no true separation of church and state since there is an established tax-supported church.

### *Abortion and Religious Freedom*

With the background so far presented, we can consider one specific instance of current concern in the area of religious freedom, that of abortion. Restrictions on publicly financed abortion for the poor represent perhaps the most serious current threat to the free exercise of religion, as well as, of course, the separation of church and state. To those who consider religious freedom and church-state separation indivisible, exclusion of abortion from those procedures generally available to the economically disadvantaged, violates equally both aspects of the First Amendment. Not all Jews, of course, agree with this, and many of the Orthodox share the view of the Catholic Church that abortion, when not

indisputably necessary to preserve the life of the woman (and even this represents a recent concession on the part of the Church), should not be allowed, and certainly should not be financed with tax-raised funds.

The religious component in abortions was expressed in an article by Tom Clark, written after he had retired from the Supreme Court, and published, interestingly, in the law review of Loyola University, a Catholic institution.

Throughout history religious belief has wielded a vital influence on society's attitude regarding abortion. The religious issues involved are perhaps the most frequently debated aspects of abortion. At the center of the ecclesiastic debate is the concept of "ensoulment" or "personhood," i.e., the time at which the fetus becomes a human organism. The Reverend Joseph F. Donseel of Fordham University admitted that no one can determine with certainty the exact moment at which "ensoulment" occurs, but we must deal with the moral problems of aborting a fetus even if it has not taken place. Many Roman Catholics believe that the soul is a gift of God given at conception. This leads to the conclusion that aborting a pregnancy at any time amounts to the taking of a human life and is therefore against the will of God. Others, including some Catholics, believe that abortion should be legal until the baby is viable, i.e., able to support itself outside the womb. In balancing the evils, the latter conclude that the evil of destroying the fetus is outweighed by the social evils accompanying forced pregnancy and childbirth.<sup>1</sup>

Two arguments against governmental financing of non-therapeutic abortions merit some comment. In the first place, it is argued, one cannot consistently urge that the government may not finance even the secular aspects of parochial school education because its effect is to advance religion, yet, at the same time, may finance abortions whose effect is to inhibit or contravene religion. If non-Catholics cannot be taxed to support parochial schools, why can Catholics be taxed to maintain hospitals that perform abortions? In the second place, municipal hospitals do not, and are not required to, furnish all hospital procedures; there can hardly be any objection to requiring those who want a cosmetic procedure, even the poor, to pay for it themselves.

In respect to the first argument, there is, it may be suggested, a basic difference between aid to parochial schools and the financing of abortions. The former is barred because religion is an intricate part of the instruction in parochial schools—Catholic, Protestant and Jewish. Abortions, the Supreme Court has ruled, is a purely secular procedure and while it may be religiously objectionable to some, as are, for example, fluoridation and blood transfusions, it is religiously neutral to most Americans. While the Free Exercise Clause bars compelling women to undergo abortions, it does not justify withholding the service from the majority of

1. Tom Clark, "Religion, Morality and Abortion: A Constitutional Appraisal," *Loyola University Law Review*, Vol. 2 (1969): 1.



Americans to whom the procedure is as religiously neutral as fluoridation and transfusions.

As for the second argument, that municipal hospitals do not offer all procedures and, hence, may exclude abortions, there would seem to be a basic difference between the two situations. Cosmetic procedures are excluded on purely economic considerations, whereas the exclusion of abortions is based on religious doctrine, which the spirit of the First Amendment, if not its letter, forbids.

In 1976, a number of religious organizations, including the Union of American Hebrew Congregations, submitted to the Supreme Court a joint friends-of-the-court brief arguing that the exclusion of abortion procedures from services available at municipal hospitals or from financing under the Medicaid law violated both the Establishment and the Free Exercise Clauses of the First Amendment. This argument was not accepted by the Court any more than was the one presented by the lawyers for the indigent women that the exclusion violated the clause in the Constitution guaranteeing to all persons, including poor ones, the equal protection of the law.

For those women or their parents who can afford financing a trip to a nation (such as Sweden) or a state (such as New York) where abortions, at least during the first two-thirds of pregnancy, are available, the effect of the Court's determination is comparatively small and manageable. For those who must resort to Medicaid or to access to municipal hospitals, 43.4% of whom, Supreme Court Justice Marshall noted in his dissent, are nonwhites, the consequences can be tragic: they must resort to illegal and cheap but dangerous abortions, or bear unwanted children, most of whose upbringing will have to be paid for by the community until such time as they can become self-supporting. The ruling appears to deal impartially and equally in respect to abortions for the well-to-do and the poor, but, as Justice Brennan noted in his dissent, it is reminiscent of Anatole France's comment that the "law, in its majestic equality, forbids the rich as well as the poor to sleep under bridges, to beg in the streets, and to steal bread."

On January 26, 1978, some months after this paper was prepared, Secretary of Health, Education and Welfare, Joseph A. Califano Jr., himself a devout Roman Catholic strongly opposed to abortions except when necessary to save the life of the woman, announced the adoption of new regulations substantially liberalizing the availability of Federal funds to finance abortions for the poor. The law enacted by Congress forbidding the use of Medicaid or other Federal funds to finance abortions allows them in three cases: rape, incest and where the woman's life would be endangered, or where severe and long-lasting physical damage to the woman would result from her giving birth. The new regulation interprets these exceptions very liberally and allows Federal financing in many cases where previously it was not allowable.

*Conclusion*

One who examines the status of church-state separation and of religious freedom in the United States today can hardly escape the conclusion that, while infringements have been experienced in both areas, the dual mandate of separation and freedom has, on the whole, been honored to a remarkable degree, probably more than in any other nation in the world. This does not mean that all members of the Jewish community in this country unanimously approve the Supreme Court's resolution of the controversies. The Orthodox are clearly not happy with denial of governmental funding to yeshivot, nor with constitutional protection of the right to abortion. On the other hand, the non-Orthodox do not agree with the Supreme Court's sanction of the denial of Medicaid coverage for elective abortions, nor with its allowance of substantial governmental financing in respect to church-related colleges and universities. Both the Orthodox and the non-Orthodox are unhappy about religious intrusions into the public schools and are not content with the limited protection that is allowed to employees, in governmental and non-governmental service, who will not work on the Sabbath or who, in public hospitals or in penitentiaries, will not eat non-kosher food.

What all this means is that those who believe in the principles of separation and freedom in respect to one's relationships with the state must remain alert and committed in their efforts towards achieving what has not yet been achieved and defending that which has.

# *Mehizah, Midrash and Modernity: A Study in Religious Rhetoric*

ALAN J. YUTER

IN AMERICAN JEWRY, BOTH THE ORTHODOX and the Conservative movements claim to represent traditional Judaism. For all of its internal differences, Orthodoxy is united in the belief that the Oral as well as written Torah was revealed by God to Moses at Sinai.<sup>1</sup> Conservatism rejects this concept of revelation as well as some practices that Orthodoxy holds dear. As a consequence, Orthodoxy views Conservative Judaism's traditionalism to be a misleading alternative to the life style mandated by the Torah and the sages.

The most obvious difference between Conservative practice and the Orthodox norm is the institution of family pews. Orthodox spokesmen have been steadfast in their commitment to separate seating during religious services;<sup>2</sup> the Conservative approval of the practice, viewed by many as tacit rather than halakhic, has created the popular impression that Orthodoxy alone has faithfully preserved traditional Judaism. Conservative Judaism's unwillingness, or inability, to define its halakhic posture, in general, or to justify the practice of family pews, in particular, has led one Orthodox scholar, Lawrence J. Kaplan, who specializes in Jewish thought, to note that

many of the major changes . . . (that the (Conservative) movement has instituted, indeed could not be justified in a traditional halakhic manner and have therefore been made *de facto* rather than *de jure*. A striking example is the mixed seating of men and women in the synagogue, perhaps the main feature distinguishing Conservative synagogue practice from Orthodoxy. No official responsum has ever been issued to justify this move . . . The clear consensus of all Talmudic and post-Talmudic sources requires separate seating.<sup>3</sup>

1. Norman Lamm, Chancellor of Yeshiva University, accepts "unapologetically the idea of verbal revelation of the Torah." (*The Condition of Jewish Belief* [New York: Macmillan, 1966], p. 124); Rabbi Immanuel Jakobovits, the Chief Rabbi of the United Kingdom's United Synagogue, considers the Jewish doctrine of revelation to be the axiom that "the Pentateuch as we have it today is identical with the Torah revealed to Moses at Mount Sinai." (*Ibid.*, p. 110). In his review essay on *The Conditions of Jewish Belief*, Rabbi Shubert Spero correctly observes that all the Orthodox rabbis quoted in the symposium "affirm the traditional principle of Torah Min HaShamayim." (*Tradition* 9 [1967]: 143).

2. For an exhaustive summary of Orthodox opinion on the subject see Baruch Litvin, ed., *The Sanctity of the Synagogue* (New York: Spero, 1959).

3. Lawrence J. Kaplan, "The Dilemma of Conservative Judaism," *Commentary* (November 1976): 145.

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While Orthodox scholars have taken pains to demonstrate that non-Orthodox halakhic activity deviates from the historical precedents and procedures of what they call "authentic" Judaism, non-Orthodox scholars justify their changes by non-halakhic considerations such as sociology, philosophy, history, or technology, thereby reinforcing the Orthodox argument that it, alone, is the legitimate exponent of Jewish tradition. Although the Reform and Conservative trends find in the *Wissenschaft des Judentums* movement models of development and growth which facilitate the acceptance of a classical Jewish tradition in a modern world, there has been little effort or interest on the part of non-Orthodox scholarship to examine the literature, philosophy or program of twentieth century Orthodox Judaism. Nevertheless, to suggest that the religion espoused by current Orthodox spokesmen is congruent with the religion of ancient Israel or, for that matter, with Talmudic or medieval Judaism, is to deny the findings of contemporary scholarship. An examination of the major Orthodox responsa concerning the segregation of the sexes during public worship reveals the underlying premises of Orthodox Judaism's doctrines of revelation and authority.

When an Orthodox layperson reads a code or responsum he must accept without question the authority and reliability of the decision. Untrained as they are by the *yeshivot* to examine *a priori* tendencies which might be found in the writings of their *poseqim*, or legal authorities, Orthodox Jews must internalize the programs and ideologies that the *poseqim* project. The authority of Rabbis Moses Feinstein and Joseph B. Soloveitchik derives as much from their communal stature as it does from their learning, and their opinions are accepted by their respective followings by dint of the sensibilities that they represent as much as it is by the Talmudic methodologies which they employ. Their responsa on the issue of family seating reveal a *de jure* willingness to reformulate Judaism as well as a *de facto* interest in preserving traditional sensibilities.

For the more liberal trend within American Orthodoxy, Rabbi Soloveitchik is the most revered and respected spokesman. A leading *poseq* for the Rabbinical Council of America and Rosh Yeshiva of the Isaac Elchanan Theological Seminary which is affiliated with Yeshiva University,<sup>4</sup> he represents liberal Orthodoxy's ideal synthesis of the modern intellectual who is grounded in an authentically traditional and theologically credible Orthodoxy. His prominence dictated that he be consulted for an authoritative ruling when K.K. Adath Israel of Cincinnati, Ohio, wanted to institute family seating for its religious services. Since the congregation's charter mandates that it be a "Jewish Congregation of worship according to the Orthodox forms adopted by Polish Jewry,"<sup>5</sup> and its by-laws stipulate that "the form of worship shall be in accordance with the

4. Aharon Lichtenstein, "Introduction," in *Shiurei Harav* (New York: Hamevaser, 1974), pp. 3-4, translated by Shalom Carmy from the *Encyclopaedia Hebraica*; v. 25, pp. 502-3.

5. *Conservative Judaism*, (Fall 1956): 11.

forms and tradition of Orthodox Israelites,"<sup>6</sup> Rabbi Soloveitchik was enlisted to define the importance of separate pews for Orthodox Judaism. The incumbent, who was committed to Conservative Judaism, argued that family seating would not be in violation of the formula "Orthodox forms and practices" as understood by the congregation. On the other hand, the traditionalists within the congregation posited that family seating represented a fundamental break with traditional Jewish usage. Following this reasoning, the Conservative scholars<sup>7</sup> who justified the change in synagogue seating reasoned that the Orthodox Judaism of the congregation signified the tradition that had been accepted by the congregants; their use of the term "Orthodoxy" simply signified a traditional sensibility rather than a theological or political commitment.<sup>8</sup> Rabbi Jacob Agus considered the congregation's image of Orthodoxy to be synonymous with the traditional Judaism associated with the right wing of Conservative Judaism. Rabbi David Aronson, like Rabbi Agus, appealed to the traditionalist image of The Jewish Theological Seminary of America for a possible redefinition of Orthodox Judaism. While both Rabbis Agus and Aronson note that Orthodox scholars cannot agree exactly what the prohibition of family seating happens to be, it must be noted that their identification of Conservative Judaism with Orthodoxy is simply an application of definitions that both the Orthodox and Conservative movements would reject.<sup>9</sup>

For Rabbi Soloveitchik, the requirement that the sexes be segregated is a

Pentateuchal injunction which can never be abandoned by any legislative act on the part of a rabbinic or lay body regardless of its numeric strength or social prominence. What is decreed by God can never be undone by human hand.<sup>10</sup>

After stressing the Divine sanction which he believes underlies the requirement that the sexes be segregated, Rabbi Soloveitchik appeals to the consensus of his colleagues by noting that no

Orthodox rabbi or Talmudic scholar of high repute . . . would dare say that mixed seating is in consonance with our law. (He then asserts that) the requirement for the separation is halachically so elementary and axiomatic, historically so typical . . . that whoever dares to question this institution is either uninformed or consciously distorts religious realities.

6. Ibid., p. 3.

7. See Ibid., pp. 53–56 for Rabbi Agus' view and pp. 57–59 for Rabbi Aronson's response.

8. He noted that Profs. Schechter and Ginzberg referred to themselves as "Orthodox." (Ibid., p. 55).

9. Rabbi Isaac Klein, a Conservative halakhic scholar of traditionalist leanings, asked his congregation to drop its Orthodox affiliation when it adopted family pews. (*Conservative Judaism* [Winter 1957]: 33).

10. *Conservative Judaism* (Fall 1956) and, with some variation, Litvin, pp. 139–141.



Rabbi Soloveitchik concludes his responsum by denying that the occupying of family seating pulpits by members of the Rabbinical Council of America makes the practice legitimate.

Rabbi Soloveitchik's insistence that family pews are prohibited by Divine Law is repeated throughout his responsum. By claiming the practice of family pews to be a violation of a "Pentateuchal injunction," "a flagrant violation," and a "transcendental tenet," he underscores the prohibition's gravity. Once the requirement that the sexes be separated is linked to God's unchanging word, there can be no local practice, mitigating circumstance or temporal sensibility that can overturn God's eternal will.<sup>11</sup>

The appeal to the larger Orthodox consensus is an emotionally compelling argument. However, the suggestion that no Orthodox rabbi would permit the practice of family pews is circular; the very acceptance of the practice would nullify the individual's Orthodox credentials. The second term, "Talmudic scholar of high repute," is also a rhetorically ambiguous formula. While it is admitted that the late Professor Louis Ginzberg was a scholar of the highest repute who, nonetheless, permitted the institution of family pews,<sup>12</sup> Rabbi Soloveitchik denies the legitimacy of a scholarly view which differs from the Orthodox consensus:

No rabbi, however great in scholarship or moral integrity, has the authority to endorse, legalize, or even apologetically explain this basic deviation. Any rabbi or scholar who attempts to sanction the desecrated synagogue casts *ipso facto* a doubt on his own moral right to function as a teacher or spiritual leader in the traditional sense of the word.<sup>13</sup>

What first appears as an issue of scholarship is no less than a confusion of terms and definitions. Whether Professor Ginzberg was correct or not is beside the point; Rabbi Soloveitchik's argument from Orthodox rabbinic consensus is grounded on the premise that scholarship must conform to religious doctrine to be considered legitimate.

According to Rabbi Soloveitchik, the prohibition of family pews is derived from a Pentateuchal verse:

11. Contemporary Orthodox practice does allow for the virtual abolition of Pentateuchal law. The requirement that certain portions of slaughtered animals be given to priests is mandated by Deuteronomy 18:3 and considered binding for all Jewry, irrespective of time and location (*Hullin* 135a, Maimonides *Bikkurim* 9:1, *Shulhan Arukh Y.D.* 81:21, and *Arukh ha-Shulhan* 81:21). Orthodoxy relies on the rejected opinion of Rabbi Ilai for the waiver of this requirement. Similarly, a married woman who bares her hair in public is considered to be in violation of a Pentateuchal law (Numbers 5:18) and must be divorced without receiving the value of her marriage contract (*Ketubot* 72a). Although the practice of women donning hair covering has fallen into disuse among many of the Orthodox as well as non-Orthodox rabbinate and laity, there has been no call that such women be divorced.

12. He ruled "that if the conditions of a congregation are such that continued separation of family units during services presents a great danger to its spiritual welfare, the majority ought to yield to the spiritual needs of the majority." (Cited in Eli Ginzberg, *Keeper of the Law* [Philadelphia: JPS, 1966], p. 230).

13. Cited in Litvin, p. 91.

Since the Lord your God moves about in your camp to protect you and to deliver your enemies to you, let him not find anything unseemly (*ervat davar*) and turn away from you.<sup>14</sup>

The passage's context refers to the requirement that the ancient Israelites preserve a state of ritual purity in their camp so as to insure God's protective presence. Not only is the context not related to the separation or segregation of the sexes, none of the medieval enumerations of the six hundred and thirteen commandments considers this verse to be the source for an eternally binding law. According to Maimonides, a verse must be cited by the Talmudic authorities on the basis of an exegetical tradition of the Oral Law or be derived by means of the classical rules of exegesis and it must be a command given to Israel which is binding for all time.<sup>15</sup> By employing the rhetoric of *midrash halakhah*, Rabbi Soloveitchik implies that he possesses both the authority and tradition to define the meaning and application of the Pentateuch, a prerogative traditionally reserved for members of the Great Sanhedrin.

Equally far-reaching is Rabbi Soloveitchik's attribution of the requirement that the sexes be segregated by means of a partition to a rabbinic injunction. Rabbinic law must be legislated and recorded; if a prohibition is not specifically mentioned and promulgated as such by the Talmud or the Codes, the restriction is, at best, a *minhag* or local ordinance of regional validity.<sup>16</sup> Rabbi Soloveitchik tacitly admits the weakness of his position by attributing the requirement that the sexes be segregated to a rabbinic ordinance, the source of which is not cited.

While Rabbi Soloveitchik distinguishes between separation of the sexes and their segregation by means of a partition, Rabbi Moses Feinstein, the spiritual spokesman for most of the more right-wing elements within the Orthodox community, adopts a more rigid stance. Unlike Rabbi Soloveitchik, whose responsum concerning family pews is but a short letter to another rabbi, Rabbi Feinstein devotes an extensive responsum to an examination of the sources which bear upon the requirement that the sexes be segregated, as well as of the force of their binding authority.

According to Rabbi Feinstein,<sup>17</sup> the requirement that the sexes be segregated by a partition during synagogue worship is Pentateuchal in origin, and a simple separation without a partition is of no legal consequence. With an adept and masterful control of Talmudic literature, he calls attention to the passage in B.T. *Sukkah* 51b, according to which a

14. Deuteronomy 23:15.

15. Maimonides, *Introduction to Yad ha-Hazakah*.

16. Maimonides, *Sefer ha-Mizvot, shresh* 3. For a study of Maimonides' definition of Pentateuchal law see Jose Faur, "Dinim Muflaim bi-Rambam," *Sinai* (1970): 24f.

17. Maimonides, *Introduction*.

18. *Igrot Moshe Orah Hayyim*, (Brooklyn: Moriah, 1959), n. 39, pp. 95-100, partially translated in Litvin, pp. 118-124.

women's gallery was constructed in the women's court (*ezrat nashim*) of the Temple for the celebration of the Water Libation Festival, observed on the first intermediate night of the Tabernacles festival. From this precedent he argues that mixed pews are Pentateuchally forbidden. Since the Talmud raises the question that such a gallery might violate the Divinely revealed Temple architecture,<sup>19</sup> only an overriding Pentateuchal imperative would be of sufficient juridic force to supercede the oracle. The gallery was erected to avoid *qallut rosh*, generally understood as "levity," but defined by Rabbi Feinstein as men and women "talking to one another, their touching hands, and the like." Since the Temple architecture was revealed by God, it must be considered as binding as the Pentateuch. Thus, Rabbi Feinstein defines the conventional social intercourse of men and women to be in violation of Pentateuchal law. After an exhaustive excursus in which he dismisses those passages which conflict with his interpretations, he concludes that "it is reasonable" that synagogues, like the Temple, enable Jews to discharge obligations which are Pentateuchal in origin, and, therefore, the prohibition of the mingling of the sexes during the Water Libation Festival also applies to modern synagogues.

While it is true that the Talmud did not view the mingling of the sexes with favor,<sup>20</sup> it is similarly clear that this mingling was never considered to be a Pentateuchal violation. Specifically, the High Priest read the liturgy for the Day of Atonement from the women's court,<sup>21</sup> families eating the Passover offering together are forbidden to separate into male and female groups,<sup>22</sup> and the King of Israel read his portion on a platform erected in the women's section<sup>23</sup> without any Talmudic objection that the Temple architecture was being violated. Further, the Talmudic sages do not seem to be concerned with *qallut rosh* in the above mentioned cases. Thus, Rabbi Feinstein not only supplies the content of a rule which he claims is Pentateuchal, he also offers a new criterion for the derivation of Pentateuchal law. For Maimonides, Pentateuchal law must be derived from a Pentateuchal text; derivations from the Prophets or Hagiographa can be said to be only rabbinic in origin.<sup>24</sup>

19. I Chronicles 28:19.

20. For instance, the recitation of the invitation to recite the grace (*zimmun*) may not be made among a group of three that contains both sexes, (Berakhot 45b). The Talmudic passage cited from *Sukkah* 51b indicates that the unchaperoned social intercourse of the sexes is a breach of Jewish etiquette, for reasons of immodesty. Similarly, men and women are enjoined from unnecessary conversation (*Abot* 1:5). Litvin, p. 11, cites the late Rabbi Aaron Kotler who quoted a passage from *Yalkut Shimoni* I, 934 which bids men to avoid prayer among women lest they be distracted. This passage underscores the fact that rabbinic Jewish etiquette discouraged the mingling of the sexes as well as the fact that the etiquette was not legislated into law indiscriminately. It is most likely that Pharisaic men and women avoided contact lest they be rendered impure and ineligible to partake of the table fellowship.

21. T.B. *Yoma* 69a-b.

22. Once joined in fellowship for the Paschal meal, it is forbidden to separate into smaller groups. See T.B. *Pesahim* 86a-b.

23. T.B. *Sotah* 41a.

24. While Maimonides and Nahmanides differ as to the nature and specifics of the six

Rabbi Feinstein was also asked to rule on the case of Congregation Adath Israel of Cincinnati and its rabbi who, as has been noted, was supportive of the institution of family pews. He ruled that the rabbi was a "sinner who incites others to sin." Somewhat inconsistently, Rabbi Feinstein then suggested that separation without a partition is still more acceptable (*qal*) than the mingling of the sexes that occurs with family pews, an offense of greater gravity (*hamur*).<sup>25</sup> In his responsum on the legal status of the partition, Rabbi Feinstein claimed that any partition which did not avoid what he defined as *qallut rosh* has no legal significance; here, Rabbi Feinstein approaches Rabbi Soloveitchik's position in which a separation without a partition does have some halakhic validity.

By defining family pews as a violation of Pentateuchal law, Rabbi Feinstein denies the sanctity even of "traditional" Conservative congregations because they cease to conform to the mandates of what has been defined as Pentateuchal law. Similarly, rabbis who grace such pulpits are heretics because they deny the religious authority of the Pentateuch as understood by Rabbi Feinstein. Consequently, one ought not to respond *amen* to a benediction recited by a non-Orthodox rabbi,<sup>26</sup> while the benediction of a non-observant doctor ought to be answered.<sup>27</sup> The former, by rejecting the authoritative sage, is a heretic; the latter, moved by impulses presumably other than ideology, is not. Further, Rabbi Feinstein begrudgingly tolerates the institution of Bar Mitzvah with all of its abuses only because it was instituted by Orthodoxy; the Bat Mitzvah rite is opposed for no reason other than that it was instituted by non-Orthodox leaders.<sup>28</sup>

In a most controversial responsum, Rabbi Feinstein does not require a writ of divorce for the termination of marriages performed under Reform auspices because the Reformers "are all evil and given to wanton Sabbath violation and to violate all of the Torah's commands."<sup>29</sup> Civil marriages are of greater halakhic viability because they make no claim to religious legitimacy. The Reform ceremony condones a life style that denies traditional authority and, by implication, morality.<sup>30</sup>

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hundred and thirteen commandments, Maimonides believing them to be the content of the Pentateuchal revelation and Nahmanides considering them to be the old laws which the rabbinic period has inherited from Biblical Judaism, both would deny the right of a post-Talmudic rabbi to derive a law or principle from the Biblical text. See *Sefer ha-Mizvot*, *shoresh 1* and Nahmanides *ad loc.* A similar critique of Rabbi Feinstein's responsum may be found in Rabbi Yontew Schwarz, *Me'aneh le-Iggarot* (New York, 1964), pp. 31,42. Although Rabbi Schwarz usually considers Rabbi Feinstein's rulings to be indiscriminately lenient, he argues that the attribution of the synagogue partition to Pentateuchal law is a presumptuous deviation from the canons of Biblical exegesis.

25. Feinstein, *Igrot Moshe*, no. 44, p. 104.

26. *Ibid.*, *Orah Hayyim*, no. 50, pp. 237-238.

27. *Ibid.*, pp. 238-240.

28. *Ibid.*, *Orah Hayyim*, (1959), no. 104, p. 170.

29. *Ibid.*, *Even ha-Ezer*, vol. III, no. 23, p. 445.

30. *Ibid.*, no. 25, p. 447. Here Rabbi Feinstein argues that civil marriage ceremonies are of greater halakhic validity than Reform ceremonies, whose juridic pretensions render them

Rabbi Feinstein's ideological severity is tempered only by the pressing needs of the hour. When Rabbi David Hollander, a vocal opponent of Jewish non-Orthodox expressions, challenged the writ of divorce signed by a rabbinical student of The Jewish Theological Seminary of America, Rabbi Feinstein sought mitigating circumstances which might allow the woman to remarry.<sup>31</sup> But Rabbi Feinstein also opposes inviting a professor from The Jewish Theological Seminary to offer a class in an Orthodox congregation because such an individual would undoubtedly teach heretical doctrines.<sup>32</sup>

In the introduction to his first volume of responsa, Rabbi Feinstein explains that, however unworthy he might be, he is required to render decisions on matters of Jewish law because there are no others qualified to do so.<sup>33</sup> With this disclaimer, he justifies the disenfranchisement of all dissent, however learned and grounded in Jewish tradition. It is well known that the right-wing elements of Orthodox Jewry oppose the reconstitution of the Sanhedrin; such a body would conceivably have the authority to create new laws which the hour demands as well as to abolish old ones which have fallen into disuse.<sup>34</sup> Viewing Jewish pluralism with greater alarm than non-observance, Rabbi Feinstein opposes the convening of a Sanhedrin because theological and halakhic dissent could become legitimate despite his strenuous objections.

Rabbi Louis Jacobs, a Conservative theologian occupying a leading British pulpit, "is more than a little astonished that there has been no official rebuttal of Rabbi Feinstein"<sup>35</sup> for his strident ideological denial of non-Orthodox legitimacy. Samuel Morell, a scholar of rabbinic law teaching at SUNY-Binghamton, notes with considerable justification that Rabbi Feinstein views the act of Sabbath violation to be grounded in ideological defiance.<sup>36</sup> While Jacobs and Morell stress the ideological tendency underlying Rabbi Feinstein's decisions, Aaron Kirschenbaum of Tel Aviv University Law School summarizes the more popular view:

R. Moshe possesses that rare combination of comprehensive Torah learning, profound humility and scrupulous honesty that qualifies him to be a *posek be-yisrael* in the traditional sense.<sup>37</sup>

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utterly void. Conservative procedures, even when in accordance with halakhah as understood by Rabbi Feinstein, do not fare much better. According to Rabbi Feinstein, the use of a ritualarium ought to be denied to a Conservative *bet din*, or religious court, when used for conversion because the court is, by definition, illegitimate (Ibid., no. 125, p. 197).

31. Ibid., *Even ha-Ezer*, no. 135, p. 312. Here, Rabbi Feinstein's opposition to non-Orthodox halakhic pretensions is tempered by the needs of a woman who, without a Jewish divorce, would be unable to remarry. This lenient decision was attacked by Rabbi Schwarz for its inconsistency in *Me'aneh le-Iggarot*, no. 169, p. 362.

32. *Even ha-Ezer*, no. 108, p. 180.

33. Ibid., *Orah Hayyim* I, (1959), pp. 3-4.

34. Maimonides, *Yad, Mamrim*, 1:1, 2:1-2.

35. Louis Jacobs, "Theological Responsa," JUDAISM, 16 (1967): 345 ff.

36. Samuel Morell, "The Halakhic Status of Non-Orthodox Jews," JUDAISM, 18 (1969): 456.

37. Aaron Kirschenbaum, "Moses Feinstein's Responsa," JUDAISM, 15 (1966): 369.



While noting that Rabbi Feinstein's decisions on timely matters are on occasion lenient and on occasion severe, Kirschenbaum avoids any discussion of Rabbi Feinstein's legal methodology, nor does he provide an analysis of the ideological motivation underlying his disqualification of Reform marriage ceremonies, a supposedly "lenient" decision. Ironically, the world view which is not examined in Kirschenbaum's essay is made explicit in a query which Kirschenbaum himself had put to Rabbi Feinstein concerning the permissibility of cigarette smoking, given the scientific findings that the practice is dangerous to one's health. Arguing that since the Torah sages do smoke cigarettes, Rabbi Feinstein finds that one cannot forbid the smoking of cigarettes.<sup>38</sup> Correct practice cannot be determined by an objective exegesis of the law; only the legitimate authorities can determine correct practice. If the practice of the Torah sages, the truly authoritative Orthodox spokesmen, seems to be at variance with the law, the law must be accommodated to their practice.

Rabbi Feinstein's world view has been accepted by the Agudat Israel trend within Orthodoxy. Rabbi Nathan Bulman, a most articulate Agudist, admits that "Orthodoxy cannot survive in a Jewish world that has become religiously pluralistic."<sup>39</sup> The authority of the *gedolim*, or great ones, the Hebrew epithet for the term "Torah Sages," among whom Rabbi Feinstein is acknowledged to be the most prominent, is called *da'at Torah*, or authoritative dogma. Rabbi Bernard Weinberger suggests that these *gedolim* are endowed with the capacity to perceive secular reality with an almost metaphysical objectivity. "It is a form of *Ruah Hakodesh*" (Divine inspiration).<sup>40</sup> The believing Jew is obligated, according to this doctrine, to "recognize the authority of the *gedolim* in every aspect of Jewish life."<sup>41</sup> It is noteworthy that the values of Judaism cannot be culled from the Bible, *aggadah*, or medieval Jewish philosophy by laymen or rabbis; even rightist Orthodox prayer quorums ought to have a rabbi, not only for halakhic decisions, "but for the views of our *gedolim*." Correct practice is insufficient, for the Orthodox Jew must allow "his opinions and practices to be molded by the overriding Torah policies of the *Gedolei Yisrael*."<sup>42</sup> For the Orthodox *gedolim*, the *aggadah* of classical Judaism<sup>43</sup> has come within the orbit of their authority to mold, limit, and filter so that only the "correct" tendencies of Judaism be made available to the Jewish community.

As has been noted, views at variance with those of the *gedolim* are considered to be theologically heretical as well as objectively incorrect. A most interesting example of this phenomenon occurred when Rabbi

38. *Igrot Moshe, Yoreh Deah*, Vol. II, no. 49., p. 69.

39. "A New Voice," *Jewish Observer* (September 1963): 6.

40. "The Role of the Gedolim," *Ibid.* (October 1963): 6.

41. Yaakov Jacobs, "American Orthodoxy," *Ibid.*, (December 1964): 18.

42. Eli Teitelbaum, cited in *Ibid.*, (Jan.-Feb. 1976): 40.

43. For a description of the non-binding quality of *aggadah*, see Itzhak Heinemann, *Darkhe: ha-Aggadah* (Jerusalem: Magnes, 1970), p. 11.

Manuel Poliakoff, an Orthodox rabbi in Baltimore, wrote a learned essay concerning the use of a microphone on the Sabbath.<sup>44</sup> Since Rabbi Poliakoff rendered a lenient decision, a political furor was engendered, because Rabbi Feinstein has ruled that the use of a microphone on the Sabbath is forbidden.<sup>45</sup> The relative merits of the halakhic issues and arguments are not within the purview of this essay; the rhetorical and non-halakhic reactions to Rabbi Poliakoff's position are. In addition to marshalling his personal expertise as an engineer, Rabbi Tovia Bassier criticized Rabbi Poliakoff for "the impudence expressed toward Rabbi Feinstein" and for "directing his criticism to the readers of *Tradition* in an effort to discredit Rabbi Feinstein instead of making a mature and constructive effort to resolve the matter with Rabbi Feinstein."<sup>46</sup> In another rejoinder, Rabbi Edward Burns remarked that "Rabbi Poliakoff's glib attempt to undermine the position of Rabbi Moshe Feinstein, *Shlita*, prohibiting the microphone on *Shabbat*, shows a lack of understanding of the issues involved."<sup>47</sup> Like Rabbi Bassier, Rabbi Burns is motivated by ideology as well as halakhah:

My objection to Rabbi Poliakoff's letter is not that he permits the use of a microphone on *Shabbat*. If true scholarly evidence supporting such a view could be mustered, it would naturally receive the attention of all Torah sages.<sup>48</sup>

Both Rabbis Bassier and Burns view the *gedolim*, in general, and Rabbi Feinstein, in particular, as ultimate Jewish authority. Rabbi Poliakoff's dissent is objectionable because the authoritative decision on the matter was already rendered. Since he is not a "Torah sage," his personal authority extends only insofar as it is congruent with the views of the *gedolim*. The very act of making such dissent public is, for the Orthodox rabbinate, a personal attack upon those authorities whose positions are correct by definition. The legitimacy of individual decisions is judged by its conformity to the positions accepted by the Orthodox rabbinical elite. When Rabbi Feinstein disqualifies a ritual slaughterer who prayed in a synagogue that made use of a microphone,<sup>49</sup> he denies the legitimacy of a dissenting opinion because "great rabbis prohibit (the use of a microphone on the Sabbath) and it is certainly forbidden and such a person cannot be considered an unintentional violator."<sup>50</sup> Thus, rabbinical ordination, usually conceived as the right to render decisions concerning halakhah, ultimately has no legal authority. Decisions of ordained Orthodox rabbis, however learned, are invalid when they differ from the

44. *Tradition* (Spring 1974): 133-138.

45. Feinstein, *Igrot Moshe, Orat Hayyim*, Vol. III, no. 55.

46. *Tradition* (Spring-Summer 1975): 217.

47. *Ibid.*: 220.

48. *Ibid.*: 223.

49. Feinstein, *Igrot Moshe, Yoreh Deah*, vol. II, no. 5, p. 6.

50. *Ibid.*, p. 7.

views of the *gedolim*. Once Orthodox Jewry accepts this concept of *gadol*, Talmudic exegesis becomes subjective and halakhic categories penetrate the aggadah, the private, personal dimension of Judaism.

Like Rabbi Feinstein, Rabbi Soloveitchik is also viewed as an oracle by his followers. His method of Talmudic analysis, *Brisker Torah*, is an elitist methodology. According to Rabbi Eliezer Berkovits:

It is a method of extremely clear and sharp analysis of basic principles which, as if in a flash, illuminate entire subjects and many difficulties.<sup>51</sup>

As brilliant as his method appears, however, it lacks repeatability, verifiability, and historicity. Since God's law is conceived of as a consistent mathematical model which the Teacher penetrates with his insight, the Teacher-*rebbe* becomes the intermediary between man and the Divine revelation. According to Rabbi Morris Sosevsky, a Talmud instructor at Manhattan Day School for boys, Rabbi Soloveitchik's religious man "appropriates existence with *a priori* concepts contained in the divinely given body of Jewish laws."<sup>52</sup> These concepts are not explicit in halakhic literature; they are intuited by the conceptualizing teacher, or *rebbe*. In that way, halakhic achievement parallels, in its ultimate perfection, "the level of prophecy."<sup>53</sup>

The oracular quality of Rabbi Soloveitchik's Teacher-*rebbe* serves the same function as the *gadol* in the thought of Rabbi Feinstein. In a published reconstruction of a public lecture, Rabbi Soloveitchik invests Moses with an additional dimension of sanctity, over and above other Israelites, because he is the Rabbi and *Poseq*, the legal authority of a covenant community grounded in law. But Rabbi Soloveitchik apparently confuses Moses' rule as lawgiver—whose authority derives from his receiving the covenant from God—with that of the teacher who expounds the law without any claim to esoteric insights other than those that might be had through human intellection:

In the case of *Gedolei Yisrael*, the community raises them. This is a spiritual, not political kingship. Although Moses was a king in the political sense, he was always known as Mosheh Rabeinu, Moses our teacher . . . What elevated Moses was his spiritual uniqueness, his teaching role, not his political role. He established a truly genuine *Rebbe-Talmid* relationship . . . It is the Torah role that makes him a leader.<sup>54</sup>

Moses' authority derives from the fact that he alone spoke to God; nowhere in Biblical literature is Moses viewed as a teacher. By projecting the rabbinic Moses upon the Biblical one, Rabbi Soloveitchik invests the

51. "A Contemporary Rabbinical School for Orthodox Jewry," *Tradition* (Fall 1971): 11.

52. "The Lonely Man of Faith Confronts the Ish Ha-Halakhah," *Tradition* (Fall 1976): 74.

53. *Ibid.*, p. 75. For a discussion of Rabbi Soloveitchik's *a priori* theory of halakhah see David Novak, *Law and Theology in Judaism* (New York: KTAV, 1974), pp. 3-4.

54. *Shiurei Harav* (New York: Hamevaser, 1974), p. 41.

teaching model, which he represents, with the additional sanctity of the Mosaic oracle.

Both Rabbis Soloveitchik and Feinstein reinterpret Pentateuchal law in order emphatically and categorically to prohibit family seating. Indeed, Rabbi Feinstein did not hesitate to endorse a ban<sup>55</sup> against those who would join the Synagogue Council of America, a body composed of Orthodox, Conservative, Reconstructionist and Reform rabbis and laymen. Once promulgated by the *gedolim*, the ban claims the status of Pentateuchal law.<sup>56</sup> Although Rabbi Soloveitchik did not sign the document, Rabbi Feinstein's followers are adamant in their denial of pluralistic models within Judaism:

We perceive the struggle between the *Emunas Chachomim* (faith in the unerring judgment of Torah sages—author) which has always been at the root of our religious tradition, and the influence of those who arrogate to themselves the right to sit in judgment on the wisdom of our *Gedolim*.<sup>57</sup>

Collectively, the consensus of the *gedolim* represents those policies which are subsumed under the rubric of *da'at Torah* and must be accepted as Pentateuchal law. Hence, these edicts reflect Orthodoxy's doctrine of authority, whereby the *gadol* defines the content of God's revelation for modernity with no less sanction than did Moses on Sinai for ancient Israel. The non-Orthodox rejection of this authority represents a denial of revelation and the Divine will.

Ultimately, observance of the law becomes secondary to correct ideology and political loyalty. The independently-minded Orthodox thinker, Michael Wyschogrod, is dismissed as "a self-designated spokesman for Orthodoxy."<sup>58</sup> Legitimacy requires designation by the proper authorities, and true doctrine can be expressed only by individuals who are theologically acceptable. Similarly, when Rabbi Shlomo Goren, the Ashkenazic Chief Rabbi of Israel, suggested that a Conservative scholar such as Rabbi Saul Lieberman possessed the learning and piety to be acceptable for recognition in Israel,<sup>59</sup> he was attacked because he claimed that a non-Orthodox authority could be religiously authentic and politically legitimate. For Rabbi Feinstein's followers, the most "acceptable of them (Conservative rabbis)—are truly the most serious threat to a healthy Torah society."<sup>60</sup>

While the Orthodox critique of Conservatism is expressed in legal rhetoric, the ultimate conflict is ideological in nature. When Conservative scholars suggest that Judaism is molded by Catholic Israel,<sup>61</sup> their position

55. For the text of the ban see *Jewish Observer* (April 1975): 9.

56. Jacobs, "American Orthodoxy" :3.

57. *Ibid.*: 5.

58. *Ibid.*: 24

59. *Jewish Post and Opinion* (February 20, 1976).

60. *Jewish Observer* (March 1976): 36.

61. Solomon Schechter, "Historical Judaism," in Mordecai Waxman, ed., *Tradition and*

does not differ from Rabbi Feinstein's. Rhetorically, Conservative scholars make their premises public when they argue that change, tempered by tradition, is legitimate and necessary; Rabbi Feinstein claims that the tradition is static but, as the authoritative sage, *he* may reinterpret the tradition without undermining traditional sensibilities. For Rabbi Feinstein, ideological fundamentalism implements this theological-political world view, so that the *gadol* goes unchallenged. The critical study of Judaism is heretical because it might undermine *da'at Torah* or political dogma, not because it is a denial of revelation, a doctrine which cannot, by definition, be reduced to human language or empirical justification. In suppressing pluralistic options preserved by the Jewish tradition, Rabbis Feinstein and Soloveitchik redefine the content as well as the premises of traditional Judaism.

While the non-Orthodox trends have been successful in the scholarly examination of the Jewish tradition, they have not yet mustered the passionate commitment of their followers. The rigor of their search for truth is often negated by a concomitant loss of passion. Orthodoxy demands faith, especially in the oracular quality of the *gadol*, even at the expense of historical reality or the existential quest for the truth. Ultimately, history will be the legitimating referee.

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*Change* (New York: Burning Book Press, 1958), p. 94. Subsequent Conservative thinkers have echoed this doctrine. The late Prof. Boaz Cohen argued that the rabbis often ignored the literal meaning of the revealed law "to make the Bible a living law in their day" (*Law and Tradition in Judaism* [New York: Jewish Theological Seminary of America, 1959], p. 11). For Prof. Robert Gordis, tradition, "varies with its human exemplars, but this *dynamic quality* contravenes neither its divine origin nor its organic continuity." (*A Faith for Moderns* [New York: Bloch, 1960], p. 154).

# *The Impact of the Women's Movement on the Jewish Family*

GLADYS ROSEN

MOST ETHNIC AND RELIGIOUS GROUPS REGARD the family as the principal transmitter of their religious and cultural heritage. As always, the Jews are like everyone else, only more so. The stability of the family, traditionally the heart of Jewish life, has long been considered an accurate barometer of Jewish survival, but in the free and open society of America all families have been affected by the social trends and structures based on the values and beliefs which are fundamental to this nation.

Since World War II, equality, the foundation and cornerstone of American life, has come to mean the elimination of distinctions between people, particularly those related to race, sex and ethnic identity. In this ambiance, each individual can expect to realize his or her potential and find a full measure of self-gratification. In recent decades, the primacy of self-expression for the individual has been promoted by psychologists and family counselors and has become a major feature of the way we think and live. This pervasive emphasis on individual self-realization, apart from obligations to family and society, has had a significant impact on family life and on the self-perception and mutual relationships of the members of the family. Women, in particular, have been impelled by rapid changes in technology, health care and social relationships to examine what American "equality" implies for them.

Most people agree that the Women's Movement is one of the major social revolutions of our time, one whose long-range implications are only now beginning to be realized. Although it has been largely bloodless, many a head has been bowed in the process of change. If the success of a revolution is judged by raised consciousness and significant and pervasive ongoing social change, then the Women's Movement fits the bill. Indeed, modern revolutions, in an age of massive complex centers of power, are not marked by single violent acts, but, rather, by the kind of change in the direction of quality and sharing of goods and opportunities sought by the Women's Movement.

The goals of this revolution were aided and abetted by technological improvements, increased educational opportunities, new definitions of

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work which have emerged since WWII, and changing social standards. Quick food technologies and the mechanization of household tasks have freed women from time-consuming drudgery, while effective birth control devices enabled them to reduce pregnancies, and medical advances have prolonged their life expectancy, giving them time to consider investments of energy other than those related to family. Women's lives need no longer be defined exclusively in terms of motherhood, although motherhood might continue to be a main value.

At the same time, WWII opened new opportunities for female participation in the labor force, with the possibility of new kinds of work experience in areas hitherto reserved for men. But, after 1945, women once again found themselves in competition with men in a world of work defined on the basis of male perceptions and male job needs. In addition, the post-war desire for a return to normalcy made home and family a primary goal for most women.

In the ferment of the 60s, the Women's Movement saw as its first task a change in the consciousness of women *and* men in regard to the personhood and civil rights of women, to be followed by a move to change American institutions that opposed women. From its beginning, in a circus atmosphere of often strident and outrageous attention-getting demonstrations, the Women's Movement has come a long way. Its revolutionary breakthroughs are well-known: sex discrimination in employment is against the law and may soon be unconstitutional; stewardesses may marry, even have babies and return to work; medical help in birth control and abortion has become a legal option despite some efforts to limit that option. Despite a temporary stand-off in the passage of the Equal Rights amendment, 35 legislatures have already voted in its favor and the time limit for passage by state legislatures has been successfully extended from March 22, 1979 to June 30, 1982. A broad spectrum of social, economic and educational options is available to women and evidence of successful achievement by the Women's Movement is all about us—in banking and business, in politics and the pulpit, in the military, in sports and in the professions.

Every bookstore and library now has its "Five Foot Shelf" of books on women. The establishment of women's presses, the overwhelming success of *Ms.* Magazine and the enormous number of publications dealing with every aspect of women's concerns, from mothering to business management, from automobile mechanics to fine arts, are just external indications of the breadth of public interest.

The movement has gone further, however. It has succeeded in changing the way in which men and women relate to one another in educational institutions, in the world of work and in that basic social unit of society, the family.

For the Jewish community (which has always regarded the family as the essential link in continuity and in the transmission of Jewish identity),

what happens to the family has overwhelming long range implications. It is safe to assume that while the social changes wrought by the Women's Movement are here to stay, marriage and families, with all their faults, will, according to most sociologists, continue as basic institutions in human society. However, changes in how women view their roles will have a crucial impact on family size, on the effectiveness of the family as a socializer of children, and on the policies of government and of communal agencies which provide programs and support mechanisms for families.

The tremendous preoccupation in the Jewish community with what is happening to the family on every level is clear evidence that something is amiss. Hardly a day passes that some Jewish agency or organization does not announce a conference, meeting or publication dealing with the family in one of its manifold current manifestations. In the words of psychologist and student of the family, Vivian M. Rakoff, "Like language, the family appears to be a universal characteristic of human society. And like language, the expression of its exigent grammar of relationships is almost infinitely varied."<sup>1</sup> And it is this variety, introducing new and deviant patterns in a formerly stable structure, which confronts us and challenges us to offer creative responses.

Of course, there are those, like David S. Cooper, who predict, and even hope for, the "Death of the Family" because, "it alienates the individual from himself through kindness and caring" and, he charges, it is a tool of capitalist bourgeois society.<sup>2</sup> Others, R.D. Laing for example, see the family as a factory for making pathology. But our own traditions, both American and Jewish, regard the family as fundamentally nurturant and necessary to growth and the creation of identity and human connectedness. Indeed, research of the AJC Colloquium on Jewish Education has shown that, for Jewish identity-formation, the family is 2¼ times more important than education, which is so often given full responsibility for transmitting Jewish identity.<sup>3</sup>

What has been happening to the Jewish family that has made it a central issue of discussion and concern? How does it differ from the nostalgically recollected, perhaps mythical, family of our fathers and mothers, the family which Irving Howe characterized as a major factor in the immigrant generation's successful adaptation to America?

Here are some facts to consider:

1. Although most Jews do get married, they marry later. This development is accompanied by a new kind of emphasis on singles groups, whose goal is no longer matchmaking to help members leave but, rather,

1. Vivian M. Rakoff, "The Family: An Ethological Imperative" *Social Research*, 44, No. 2 (Summer, 1977): 216-34.

2. David G. Cooper, *Death of the Family* (New York: Pantheon Books, 1971).

3. Geoffrey Bock, "Does Jewish Schooling Matter?" *Colloquium Papers* (AJC Colloquium on Jewish Education and Jewish Identity, January, 1977).

to be supportive of Jewish singles by providing programs and structures for those who find singledom an acceptable state. Indeed, one out of five households consists of a single person.

2. As a result of the large increase in the divorce rate, especially between 1950 and 1973, the number of divorced women per 100 married women has doubled from 3.4 to 7. At a time when 40% of marriages end in divorce, the attitude to marriage has also changed. The traditional Jewish presumption of permanence has weakened as marriage becomes an appropriate, if temporary, relationship. The serial marriage foreseen by Margaret Mead has virtually become a near-reality as most divorced individuals do tend to remarry.

3. A dramatic drop in Jewish fertility has brought the Jewish community to a point at which it no longer reproduces itself. It has fallen from the 1970s' replacement level of 2.2 to the current estimate of 1.7.

4. Rearing and socializing children as Jews is no longer central to the lives of adults as occupational success becomes a priority.

5. The intensity and degree of inter-generational interaction has diminished with the disappearance of the extended family, the Jewish neighborhood and other informal supports. Geographic mobility has further exacerbated isolation and the weakening of family ties.

6. Intermarriage, now an increasingly important factor in the Jewish community, usually means decreased involvement in the Jewish component of life and a watering down of that component in the extended family framework. Assimilation and indifference have caused further demographic loss to the Jewish community.

7. The Americanization of family life has diminished the role of the father as a force in the nurturance and guidance of children and has increased the isolation of parents and children from family, neighbors and Jewish communal supports.<sup>4</sup>

8. The large scale entry of women into the labor force outside the home has created new child care requirements and demands for new patterns in parenting. Since a larger percentage of Jewish women are college educated and career oriented than are their non-Jewish counterparts, they are particularly concerned with these problems.

Of course, these elements are hardly characteristic of all Jewish families today; nor were all Jewish families of the past the warm, supportive multi-generational fellowships limned by the current vogue of *shtetl* nostalgia. Yet any comparison of most contemporary families with those of a generation past would confirm the fact that they are weaker, looser and have less capacity to guide the members. Nevertheless, since the family remains potentially the most effective agent for transmitting the basic Jewish values, including duty and responsibility for the welfare of others, we must explore ways of coping with the "ego-logical" crisis of our time.

4. Lawrence Fuchs, "The Jewish Father for a Change," *Moment* (Sept. 1975): 45-50.

*Responding to Changes in the Family*

We find ourselves in a transition phase during which we have begun to accept the changes which have profound implications for Jewish identity and the Jewish future while we maintain the importance of assuring the health and viability of the family. We must, therefore, examine the new roles of women in our society in order to develop sufficient models and opportunities for effective support systems and programs which will simultaneously strengthen the family without denying to women an individually satisfactory degree of fulfillment.

The logical point of departure for such efforts is an examination of what has traditionally been woman's primary role, and the source of her self image and personal identity. What has happened to the Jewish mother, the old times *baale boste*, under the impact of women's liberation or, rather, of the options to which it awakened her?

Her role was always crucial to Jewish life. As an *eshes hayyil*, a woman of valor, she often combined running a business, caring for the children, doing the household chores and engaging in charitable activities. She may have been as overworked as the mythical "woman of valor" while she shared her husband's hard lot, but she was secure in her role and the importance of the part that she played in family and community.

Through much of Jewish history, the Jewish mother followed this pattern. It may not have been easy but she had little choice. Now she is likely to question the traditional assumptions. Indeed, several years ago, at the early stages of my feminist indoctrination, I suggested to several more "liberated" colleagues that equal time might be given to motherhood and the family as a desirable option which could offer fulfillment to some women, at least some of the time. I was told that motherhood was, indeed, an option for today's women, but who in the world would choose it? To be sure, Betty Friedan declared that "the original ideology of the Women's Movement is based simply on equality and the proposition that the personhood of women comes from women's own experience." However, the group which made the headlines and surely affected the directions that many young women were to take, politicized the movement and fulminated against men, sex, marriage and the family. The expressions of rage, the extreme form of reaction about sex discrimination, men or the feminine mystique became counter-productive (no pun intended) as some women literally "threw out the baby with the bathwater." Motherhood as an option was given low priority.

Now times have changed and, in 1976, Betty Friedan was moved to say: "But did we have to say no to marriage, to motherhood, to men? No, that was a mistake."<sup>5</sup> While women no longer need define themselves solely in terms of motherhood, it is vital to our future to create an

5. Betty Friedan, "Paper Prepared for the National Jewish Community Relations Advisory Council," June 27-30, 1976.

atmosphere which will make family a desirable option and support systems which make it feasible. "Just a housewife" should cease to be a pejorative designation and should, instead, become a proud choice.

Indeed, in view of the current low birth rate in the Jewish community, becoming a parent has become more than a choice and is regarded as a political statement. In a paper presented at the Conference on Jewish Fertility in February, 1976, the well-known demographer, Sidney Goldstein, pointed out that "by the 1960s the Jewish population was increasing at about half the rate of the total population." As a consequence, the proportion of Jews in the total population declined from 3.7% in the mid 1940s to about 2.6% in 1970, with the projected Jewish family currently having between 1.5–1.7 children—well below the 2.1 per family required for replacement. Obviously, this trend has dramatic implications for Judaism, its organizations and its needs. Low and late fertility are closely related to the changing life style of Jewish women. Not only do they tend to marry later, but they continue to work after marriage and, after they have babies, are more likely than they were a generation ago to return to the work force. For the category of married women with children under 6, the participation rate in the labor force almost doubled between 1960 and 1974—from 15.6% to 34.4%. By 1970, more than 43% of all women were in the labor force and that figure has risen now to more than 50%. Although these are general statistics, recent surveys, such as that conducted by the Combined Jewish Philanthropies of Boston, suggest that they apply to Jewish women as well.<sup>6</sup>

To offset the delays in marriage and child bearing, some Jewish leaders have publicly urged Jewish parents to have three or four offspring. As is typical of American Jewish life, an organization was formed to tackle the problem, PRU, the Population Regeneration Union, a play on the first commandment in the Bible—*P'ru Ur'vu*—be fruitful and multiply. The concept of the Jew as an endangered species is not new and certainly a higher birth rate would seem to offer a simple solution, but such social engineering, however well-intentioned, is not easy. As is noted by Shirley Frank in an article prepared for *Lilith*, the Jewish feminist publication, "one might justifiably wonder how many couples actually base their child bearing decisions on concern about the survival of the Jewish people."<sup>7</sup> Certainly a major prerequisite for encouraging family growth would be greater sensitivity to the aspirations and achievements of Jewish women and the provision of supports which would enable them to

6. Floyd J. Fowler, Jr., 1975 *Community Survey: A Study of the Jewish Population of Greater Boston* (Boston: CJP, 1975).

7. Shirley Frank, "The Population Panic," *Lilith*, 1,4 (1978). Ms. Frank finds it a strange, "if not a perverse coincidence that, after all these centuries of Jewish history, just when Jewish women are demanding greater and more meaningful participation in Jewish religious and communal life, certain segments of the Jewish community are loudly hitting the old 'barefoot and pregnant' motif." I myself see no communal or rabbinic cabal in these efforts to raise the birth rate, but a rather direct, if somewhat crude, effort to guarantee survival.

achieve career goals as well as to experience motherhood. That the two need not be mutually exclusive is borne out by a research project undertaken by Aileen Cohen Nusbacher at Brooklyn College to examine the attitudes and life style of a group of thirty middle-class Orthodox women committed to both motherhood and career goals.

The women did not minimize the conflict on the basis of compartmentalizing roles but rather because they were determined in their aspirations, encouraged by their husbands, had mothers as models for working and were urged to achieve academically. The satisfactions derived from work and achievement reinforced the desire to continue, and these women seem able to function effectively in a profession, and as mothers and wives.<sup>8</sup>

Of course, these women were not superhuman; they all experienced role strain. Some refused to feel guilty, others found the conflict enormous, many reported "feeling bad" when they left their children for work, some found the special burdens of Jewish tradition difficult to bear. But all, apparently, were able to meet the challenge of dual roles. It is of interest to note that eighteen of the thirty women said that women's liberation made them feel better about their professional roles and lessened their guilt over leaving their children in order to fulfill themselves.

This study and others seem to indicate that Jewish women achieve a level of education and managerial employment generally higher than that of comparable samples of non-Jewish women. They are increasingly likely to use their higher professional and educational preparation in careers outside the home. Data emerging from a study by Prof. Abraham Lavender of 488 Jewish undergraduates at the University of Maryland indicated similar aspirations for advanced degrees on the part of both men and women. While this did not necessarily indicate the women's total commitment to a career, it suggested, at least, a combination of career with wife-mother role. Lavender also noted a higher level of Jewish identity on the part of the women, based on responses to questions on attitudes to intermarriage, Israel, and the treatment of Soviet Jews, as well as the higher representation of women in the Jewish Studies programs at many colleges. He concluded, as have many of us, that the American Jewish community deprives itself of much needed talent to the extent that it does not encourage participation in leadership positions of all individuals, regardless of sex.<sup>9</sup> Men's family responsibilities do not stand in the way of their assuming leadership roles in the community; women ask for no more.

One of the most important aspects of changing roles in the family structure is the justifiable demands by women that husbands play a

8. Aileen Cohen Nusbacher, "The Orthodox Jewish Professional Woman," M.A. Thesis in the Dept. of Sociology, Brooklyn College, January, 1977.

9. Abraham D. Lavender, "Jewish College Women: Future Leaders of the Jewish Community," *The Journal of Ethnic Studies*, 52 (Summer, 1976).



stronger role as fathers. Uri Bronfenbrenner refers to a study of middle-class fathers of one year old infants which found that they spent only 20 minutes a day with their children. When a recording microphone was attached to each infant's shirt the data indicated that, in terms of true intimate contact, the average daily time was 38 seconds!<sup>10</sup> It is important for fathers not only to devote more time, but to share equally in the care and feeding of their children as well as their instruction and disciplining. Toward this end, efforts should be made to prepare men for fatherhood, both in regard to sharing household duties and parenting responsibilities. In the carrying out of these new relationships between parents, care must be taken not to victimize the children, because research has repeatedly shown that parent concern, involvement and authoritative love are the best foundations for healthy children.

Assuming successful efforts to deal with changing roles, the Jewish community must be more inventive and more supportive in the development of ways in which to help parents, particularly in the dispersed suburban environment in which so many find themselves today. The lack of traditional informal family supports of the extended family which formerly eased the burdens of child care and the changing aspirations and opportunities for women must be taken into consideration if raising a family is to be given a desirable status by this generation of women. Their decisions in this area are crucial to Jewish communal life for, according to an analysis of the National Jewish population study by Bernard Lazerwitz, families without children are much less likely to affiliate.<sup>11</sup> Furthermore, the working mother has different needs and interests from those of the full-time housewife, who is rapidly disappearing. There is a desperate need for universal Jewish day care for preschoolers and expanded opportunities for day school education which would enable mothers to work while offering enriched Jewish education to their children. A Bureau of Jewish Education report indicated that in New York, between 1962-3 and 1972-3, at a time when the number of preschool children had dropped precipitously, the percentage of children in nursery school nearly doubled. Indeed, the absence of such facilities may discourage young women from having children. The availability of them may not change career plans, but it may move some to make a personal rather than professional contribution to society by practicing one of the most crucial options open to human beings, parenthood.

Above all, both men and women must be sensitive to the wide variety of needs and expectations among all people. The Women's Movement is relatively new, but the inner needs and conflicts which inspired it are not,

10. Uri Bronfenbrenner, "The Decline of the American Family," *Washington Post C I*, January 1977. (Reprinted from *Search at State University of New York*.)

11. Cited in George E. Johnson, "The Impact of Family Formation Patterns on Jewish Community Involvement, *Analysis*, No. 60 (November-December, 1976): 2.

and they were given expression by the most successful Jewish feminist of our time, Golda Meir, when some fifty years ago she wrote:

Taken as a whole, the inner struggles and the despair of the mother who goes to work are without parallel in human experience. But within that whole there are many shades and variations. There are some mothers who work only when they are forced to. . . . But there are mothers who cannot remain at home for other reasons. In spite of the place which the children and the family as a whole take up in her life, her nature and being demands something more: she cannot divorce herself from the larger social life. She cannot let her children narrow her horizon. And for such a woman there is no rest.<sup>12</sup>

For many women, the Women's Movement has created the opportunities which were so difficult to achieve when Golda Meir was moved to write this statement. Perhaps the time has come for women who have been so successful in providing open options for themselves to devote some of their considerable talents and energies to creating new models and viable social patterns and policies for men *and* women in what was traditionally women's highest option, that of home and family.

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12. Rachel Katznelson Shazar, ed., *The Ploughwoman* (New York: Pioneer Women, Herzl Press, 1932).

# Speaking of Man and Beast

BASIL HERRING

THE UNIQUENESS OF MAN IS AXIOMATIC IN Jewish thought. It is one of the cornerstones of the Jewish tradition that man is made in the "image" of God—but the precise meaning of that pregnant phrase is neither clear nor agreed upon.<sup>1</sup> One reason for the uncertainty is that the perception of this image depends on one's understanding of man's distinguishing traits, and that, of course, is no simple matter.

In recent years there has been increased research in the field of the language-learning abilities of certain animals, and the results, to date, have raised many questions pertaining to hitherto accepted notions of the conceptual abilities, learning processes and linguistic skills of those animals.<sup>2</sup> Whereas in the past there was a consensus that only man is capable of true speech, i.e., the ability to use words to denote objects as ideas, as against all forms of animal language and communication which merely utilize auditory and visual signs to express feelings or attitudes,<sup>3</sup> increasing numbers of scientists are concluding that some animals are capable of more sophisticated modes of communication.

If certain animals can communicate with man in these ways, and if they can thereby demonstrate primitive cognitive skills, then there is room for a re-examination of the question of man's uniqueness: wherein does it exist; is there a distinction in kind or is it merely one of degree? Related to this question is the further one whether the classical Jewish sources recognize the possibility, other than on an aggadic/homiletic level, of animal linguistic abilities—and if so, how does that recognition affect our understanding of the "image of God"?

1. A comprehensive discussion of the Biblical and rabbinic statements on the uniqueness of man is found in A. Tkhursch, *Tiferet Ha-Adam* (Jerusalem: Mosad Harav Kook, 1951). See, also, E. Urbach, *The Sages: Their Concepts and Beliefs* (Jerusalem: Magnes Press, 1971), pp. 189–226.

2. See, for example, A.J. Premack, *Why Chimps Can Read* (New York: Harper, 1976); R.A. Gardner and B.T. Gardner, "Teaching Sign Language to a Chimpanzee," *Science*, 165: 664–672; D.M. Rumbaugh, et al., "Reading and Sentence Completion by a Chimpanzee," *Science*, 182: 731–733. Among the many newspaper articles that have appeared on the subject, cf. *The New York Times Magazine*, June 12th 1977, dealing with research on a female gorilla, and *Ibid.*, July 5th 1977 with reference to experiments on dolphins. Several questions in this context were raised by A. Rosenfeld, "Human Identity: Halakhic Issues," *Tradition*, 16:3 (Spring, 1977): 58–63, without, however, attempting to resolve the particular problem treated in this paper.

3. This is the formulation, more or less, of J. Huxley in *Knowledge, Morality and Destiny* (New York: Mentor Books, 1957), p. 45.

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## I.

To understand the nature of the problem, it is necessary to summarize some recent findings. Working mainly with chimpanzees, gorillas and dolphins, scientists have devised ways of teaching these animals to learn silent languages, and to use them to gather and communicate information. These include sign language as employed by deaf humans, and the manipulation of plastic symbols that represent words.<sup>4</sup> With such methods, chimpanzees have learnt up to 130 symbols which they use in lessons and short dialogues with their trainers, and have been able to read intricate instructions, question their trainers, understand conditional sentences, and even compose similar sentences on their own.<sup>5</sup> The performance of these tasks indicates a level of communication similar to that of a five year-old human. One gorilla has acquired a vocabulary of 300 words, and has demonstrated an I.Q. of 80-90, as measured by tests for non-reading children.<sup>6</sup>

The studies indicate that these animals can acquire and use a simple language (non-verbal, of course), and are capable of elementary participation in the exchange of information, beyond the mere expressions of feelings or attitudes that were heretofore recognized.

## II.

There is a tendency found in Jewish literature that identifies the uniqueness of man with his speech faculty. Thus, Onkelos, in translating "and man became a living animal" (Gen. 2:7), says "it (i.e., the breath) became, in man, a speaking spirit."<sup>7</sup> Rashi, in commenting on this verse, says similarly "that man has in addition knowledge and speech." Ramban likewise comments that man thereby acquired the faculty of speech, which is to be equated with man's knowledge.

Similarly, it appears that a *golem* is to be distinguished from a human by his inability to communicate. This, according to the Maharsha, is implicit in *Sanhedrin* 65b where Reb Zeira was permitted to destroy a *golem* which, because it lacked the power of speech, was shown to be less than human.<sup>8</sup>

Now, when these sources refer to man's uniqueness as embodied in his ability to speak, they do not mean merely the ability to articulate sounds and words, but, rather, the capability to communicate in a mean-

4. The former is described in the Gardner article; and the latter in the Premack and Rumbaugh articles, as noted in n. 2.

5. For a detailed description of these activities, see Premack, *Op. cit.*, pp. 63, 92ff.

6. See the *New York Times Magazine*, June 12, 1977: 21.

7. In Hebrew "*vahavat ba-'adam le-ruah memalela*." For the reasons that are advanced for Onkelos' translation of these words, see M. Kasher, *Torah Sheleimah*, vol. II, p. 215, n. 161. Clearly, this definition of man as a "speaking spirit" does not ignore the speech of angels, for it intends only to distinguish man from the other existents of the sub-lunar world. *Genesis Rabbah* 8:11 explicitly equates the speech of man and that of the angels.

8. On the halakhic status of such a *golem*, see the sources quoted by Rosenfeld, *Op. cit.*, pp. 59-61.

ingful way, by exchanging information with other humans. One who is dumb (*heresh*), but who can correspond effectively, does not thereby compromise his humanity.

If so, we can inquire whether a chimpanzee that collects and communicates information does not, in a limited way, possess the faculty of *dibbur* or speech. If the answer is positive, then we should consider whether the above definition of man as a "speaking animal" is subject to reconsideration.

### III.

It will be instructive to examine some traditional responses to Scriptural accounts of articulate animals, notably the serpent at Creation, and Balaam's celebrated ass. While these two narratives are, admittedly, *sui generis* and bear little, if any, resemblance to the laboratory-tested animals under discussion, nonetheless, it is from the comments of the traditional exegetes that we can glean some attitudes to the possibility of animal communication.

In Ibn Ezra's commentary to Gen. 3:1, Saadya's opinion is recorded, wherein he denies that the serpent or ass spoke. The Gaon asserts that it was an angel speaking on their behalf. In a second, partial commentary to Genesis, Ibn Ezra mentions Saadya's reasons:

It is not possible for a serpent to speak the language of man, for it (i.e., language) is mainly conventional, and furthermore it (i.e., the serpent) does not possess speech organs capable of speech.<sup>9</sup>

Ibn Ezra also mentions that Samuel b. Hofni took issue with Saadya and asserted that the serpent did, indeed, speak.

Now, in the reasoning proffered by Saadya, there is no mention made of the serpent's inability to communicate intelligently. If, as he states, the problems are the arbitrary nature of language and the physical organs of the serpent that preclude the articulation of words, then it might follow that any means of communication which uses a sign or symbolic language free of such conventions, and which does not require the use of specific organs of speech, can be learned and used by an animal. This conjecture should be qualified, however, by pointing out that the verse under consideration states that the serpent was "more subtle than any beast of the field" (Gen. 3:1). Saadya might, therefore, restrict the possibility of such language to the crafty serpent whose special qualities are so explicitly delineated.

There is one other source that should be mentioned. The *Yalkut Reuveni* says that "the serpent spoke with Eve by means of gestures and

9. This work was edited by M. Friedlander and published by *Mezahef*, Jerusalem, in 1964. On the meaning of the terms "natural language" and "conventional language" as understood by medieval Jewish philosophers, see H.A. Wolfson, "The Veracity of Scriptures from Philo to Spinoza," *Religious Philosophy* (New York: 1965), pp. 223-237.

allusions.” Apparently this attempt to account for the physical incompatibility of the serpent with the expression of speech, contemplates the possibility that the dialogue used symbols and non-verbal techniques. A similar explanation was offered by Hai Gaon in one of his responsa, stating that “we do not know if it spoke in accordance with human expression or by some other means.”<sup>10</sup>

We find similar positions regarding Balaam’s ass. Ibn Ezra, commenting on Numbers 22:30, records the opinion of Saadya that it was not the ass that spoke, but “Satan.” Both Ibn Ezra and Nahmanides maintain that the ass did speak as a divinely ordained miracle, set at Creation.<sup>11</sup> This explanation is based on the opening words “and the Lord opened the mouth of the ass,” that indicate divine intercession.

#### IV.

We can now examine some rabbinic observations regarding those animals that have recently demonstrated language-learning ability. While, understandably, the ancients had little familiarity with undersea creatures such as the dolphin, they were more acquainted with the sub-human primates. The Bible mentions apes (*kofim*) that were imported by Solomon.<sup>12</sup> The Mishnah classifies the *kof* as a wild animal (*Kil’ayim* 8:1) whose actions do not come under the rubric of *koah gavra*, or an active human agent.<sup>13</sup> The Tosefta mentions that the *kof* was domesticated and employed to keep premises free of vermin.<sup>14</sup> *Bava Batra* 58a recognizes that the *kof* is, by nature, imitative of man, and lists apparent imitations that are compared to the human-ape relationship in the following way:

... Sarah compared to Eve is like an ape compared to man;  
Eve compared to Adam is like an ape compared to man;  
Adam compared to the divine presence is like an ape compared to man.

Now, there is a question whether the term *kof* refers to apes of the tailless kind (chimpanzee, gorilla, and orangoutang), or to those with tails

10. This statement is found in the collection of Gaonic responsa known as *Kohelet Shelomoh*, p. 67, as quoted in Kasher, *Torah Shelemah*, vol. II, p. 529, n. 9. David Kimhi, in his commentary to Genesis, mentions these and other explanations, and offers a critique of all of them. His own conclusion is that the speech of the serpent was a miracle, designed to test the faith of Eve.

11. S.D. Luzzato, in his commentary to the Torah, (Tel Aviv: Dvir, 1965), pp. 480–481, raises the question why Balaam and his entourage were not astounded at the speech of the ass, instead of being so composed at the unusual phenomenon. He further observes that nowhere in the narrative does it say that the ass “spoke.” Luzzato explains, therefore, that, in all probability, the ass emitted animal sounds, from which Balaam was able to detect an intended meaning. Such a naturalistic explanation presupposes an innate ability on the part of the ass to communicate in some non-verbal manner.

12. I Kings 10:22 and II Chronicles 9:21. It should be recalled that the midrash states that Solomon understood the language of the beasts and birds, and that they submitted to his judgment (*Canticles Rabbah* 1:1). This midrash was probably based in I Kings 5:13.

13. See *Yadayim* 1:5, and the comments of the Rosh, *ad. loc.*

14. *Tosefta Bava Kama* 8:17; *Eruvin* 3:12.



(the monkey and baboon). While the term *kof* is derived from the Sanskrit term *kapi* that means “tailless ape,” it appears that the rabbinic reference is to both the tailed and the tailless species.<sup>15</sup> The statement in *Sanhedrin* 109a, that in the time of Enosh those men who sinned had their visages changed to approximate those of apes, would appear to indicate that it is the face, not the tail, that distinguishes the human appearance from that of the ape.

An intriguing statement is to be found in the Meiri's comments to *Eruvin* 31b. The *Gemara* states that a person who entrusts his *eruv* (which establishes domicile by being placed in a specific location) to an ape to be deposited on his behalf has not thereby established a valid *eruv*. Clearly, the ape could be trained to perform such domestic tasks, as noted by Rashi in his comments *ad loc.* To this the Meiri comments that “a person can teach an ape seventy languages.” The source quoted by the Meiri is the Jerusalem Talmud, but unfortunately he does not specify the exact reference in it. There are those commentators who would understand Meiri to mean that one can train an ape to perform a particular task, with the trainer using any one of seventy languages. But this is probably not what Meiri had in mind, for such training is common in a variety of domestic animals, so that it would hardly be necessary to mention this as a special property of the ape.<sup>16</sup> More probably, Meiri means to say that an ape is capable of acquiring linguistic competence in any one of a variety of languages.

*Kil'ayim* 8:5 records a discussion on the issue whether *ʿadnei ha-sadeh* possess the status of a wild animal or of a human. The Jerusalem Talmud (*Kil'ayim* 8:4) understands *ʿadnei ha-sadeh* to be “mountain men” (*bar nash de-tur*) who live by virtue of an umbilical cord attached to the ground, which, if severed, leads to immediate death. The *rishonim* are divided: there are those who, like the Jerusalem Talmud, consider *ʿadnei ha-sadeh* to be uncivilized human beings, while there are others who maintain that they are a species of animal that closely resembles man.<sup>17</sup> The latter are in the majority.

Maimonides, in commenting on this mishnah, defines *ʿadnei ha-sadeh* as

an animal similar to a human being, regarding which those who tell anecdotes record that it says many things unendingly in speech that is similar to that of man. It is called *al-nanās*, and it is much discussed in the literature.<sup>18</sup>

This definition clearly rejects the “mythical human” approach taken by the Jerusalem Talmud. The Arabic term *al-nanās*, as quoted by

15. J. Feliks, *Ha-Hai Ba-Mishnah* (Jerusalem: The Academy for the Research of the Mishnah, 1972), p. 146.

16. This conclusion is also reached by M. Kasher, *Torah Sheleimah*, Vol. II, p. 251.

17. For a fuller discussion of the issues involved, see the *Talmudic Encyclopedia*, vol. I, p. 194.

18. J. Kappah, ed. and tr., *Maimonides' Commentary on the Mishnah* (Jerusalem: Mosad Harav Kook, 1963), vol. I, p. 214.

Maimonides here and in his comments to *Kil'ayim* 1:5, is the Egyptian Arabic term for *kof*, or ape. As the mishnah itself differentiates between *ʔadnei ha-sadeh* and *kof* by their juxtaposition in *Kil'ayim* 8:5–6, Maimonides apparently considers *kof* to be a generic term, while *ʔadnei ha-sadeh* refers to a sub-species that has a particularly close resemblance to man, one that includes its speech patterns. Among the primates, the chimpanzee is known to be particularly voluble, even in its indigenous forest setting, so that Maimonides might well be referring to this primate.<sup>19</sup>

It would thus appear that rabbinic literature, starting with the mishnah, does recognise affinities between man and ape, and that these go beyond a mere physical resemblance, to encompass their respective faculties of communication. In the case of the Meiri this even includes linguistic skills demonstrated by the ape, while, according to Maimonides, there are similarities between human and simian language.

## V.

In medieval Jewish philosophy, a common term for man, as distinguished from the sub-human world, is *medabber*, or “he who speaks.” This term received its classic formulation in Judah Halevy’s *Cuzari*, which identified the succeeding levels of existents as the inanimate (*domem*); animate (*zomeah*); living (*hai*); speaking (*medabber*); and the divinely prophetic (*ʔElohit malʔakhutit*).<sup>20</sup> Halevy attributed the distinctiveness of the *medabber* to the intellectual power (*ha-ʕinyan ha-sikhli*), which is clearly much more than the mere speaking ability implied by the term *medabber*. A negative form of the same formulation is found in Saadya’s *Book of Beliefs and Opinions*, where the animal world is characterized as being *bilti medabber* (non-speaking), a condition which Saadya attributes to the lack of wisdom (*hokhmah*).<sup>21</sup>

Maimonides’ *Guide* identifies man’s distinguishing characteristic to be the human proclivity for intellectual apprehension (*hasagah sikhli*).<sup>22</sup> But

19. J. Feliks, *Op. cit.* p. 173, identifies *ʔadnei ha-sadeh* as chimpanzees. Rabbi Israel Lipshitz, in his *Tif'eret Yisra'el* identifies the animal as the orangoutang. This animal, found only in the jungles of South-East Asia, is known for its unusual silence and, thus, could not be the same animal considered by Maimonides. That animals have their own “languages,” and that they are capable of communicating with each other, is stated in the *Pesikta Zutarti*, as quoted by Kasher, *Torah Sheleimah*, n. 9.

20. *Cuzari* I:31–43.

21. *The Book of Beliefs and Opinions* (Josefov: 1885), p. 125, which is the introduction to the fourth treatise. It should be recalled that in the Kalam, of which Saadya was the foremost Jewish exponent, the term “Mutakalimun,” i.e., those who expound the Kalam, literally means “the speakers.” Hence, the Hebrew term for these philosophers is *medabberim*. The implication of the Arabic term is “theologians,” thus completing the equation of speech with the intellect.

22. *Guide of the Perplexed*, translated and edited by S. Pines, (Chicago: University of Chicago Press, 1963), I: 1–2. On the larger issue of man’s place in the universe, and the question whether man is the purpose of Creation, see S. Ravidowicz, “*Mishnat Ha-ʔAdam Le-Rav Saadya Gaon*,” *Bitzaron*, IV, (1943): 1,3. See also the extensive treatment of the subject, found

while this may appear to repeat Halevy's formulation, by stressing man's rational faculty, there is, in fact, a significant difference. Halevy, it appears, understands this intellectual power as referring to the human capacity for "ennobling his character, to the administration of his home and country, to government and legislation" (*Cuzari* I:35). According to Halevy, therefore, man is to be distinguished by virtue of his moral and societal self-government, as it is achieved by means of the intellect. This is, furthermore, an immanent intellect, unlike the divine logos that expresses itself in the prophetic spirit, as epitomized in the Jewish people. For Halevy, what separates man from the animal world is not the ability to embrace divine knowledge, but the lesser achievement to be attained through the intellectual perfection of character and society. The greater perfection, one that encompasses a knowledge of the divine and metaphysical, constitutes the prophetic and, in fact, superhuman dimension of existence.

On the other hand, according to Maimonides, the intellectual apprehension that is the common property of all mankind, and which is the "properium" of man, is itself a transcendent intellect. It is of the essence of man that he can attain knowledge of the non-corporeal beings of the upper, metaphysical worlds.<sup>23</sup> What distinguishes man is far more than his mere self-governance and proper societal relations—it is his grasp of the divine principle and its metaphysical ramifications. This grasp is much more than the *mefursamot* (generally accepted ideas) which are the concern of social and political theory.<sup>24</sup>

Accordingly, Maimonides can consider the "mere" immanent intellect to be, in fact, a faculty shared by man and lesser species, as opposed to man's identifying transcendent intellect. Maimonides is, thus, open to the possibility of animals demonstrating certain properties that are akin to

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in N. Lamm's "The Religious Implications of Extraterrestrial Life," *Faith and Doubt* (New York: KTAV, 1971), pp. 107–162, especially pp. 127–138. Lamm's contention that perceived similarities between the intelligence of man and of certain animals do not, in any way, compromise man's uniqueness (*Ibid.* p. 136), leaves adequate room for animal language-learning abilities.

23. Maimonides' *Mishneh Torah*, "Yesodei Ha-Torah," 4:8, and the commentaries thereon. 24. It may be objected that Maimonides himself, in differentiating between man-made laws (*nomoi*) and the divine law of the Torah (*Guide* 11:40, III:27), admits that only the latter, because it is divinely bestowed, provides a knowledge of God and the angels—whereas the *nomoi*, being derived from reason alone, can only "order the city" and abolish injustice and oppression, but cannot attain intellectual truths. The answer to this is that in those chapters of the *Guide* Maimonides is clearly speaking of the establishment of a political system, and the means of bringing an entire society to the full knowledge of the intellectual truths of God and the angels—and for that only a divine law will suffice. But, in the case of the individual, there can be the achievement of metaphysical truths, even without the aid of the divine law of the Torah. It is on this supposition that Maimonides equates metaphysics with *ma'aseh merkavah* (the Act of the Chariot), which is the epitome of the knowledge of God, even though the former is within the domain of pagan Greek mentality.

On the equation of metaphysics and *ma'aseh merkavah* in the thought of Maimonides, see the *Guide* I:34, and L. Strauss, "The Literary Character of the *Guide of the Perplexed*," *Persecution and the Art of Writing* (Chicago: University of Chicago Press, 1952), pp. 41–45.

human mental processes. Consistent with this view, he permits himself to state in the *Mishneh Torah* (*Yesodei Ha-Torah* 4:8) that the soul of an animal can engage in reflection (*hirkhur*). Similarly, he affirms that animals possess an imaginative faculty that is quite comparable to man's, so that some reactions of animals approximate those of man.<sup>25</sup> These include the maternal instinct in response to the loss of the young.

Such an approach to the mental processes of the sub-human animate world, when taken together with Maimonides' recognition, as pointed out earlier, of the affinities that exist between human language and that of the *ʿadnei ha-sadeh*, certainly provides a framework within which there is room for some elementary forms of communication between man and the sub-human primate species.

## VI.

Thus, it can be seen that there is a not inconsiderable body of opinion in rabbinic literature, whether exegetic, halakhic, or philosophic, that could comfortably countenance the possibility of human communication with members of the animal world, especially the ape. Activities of this kind would not undermine the classical perception of the uniqueness of man, but could, instead, be a stimulus to the redefinition of the precise parameters of the singularity of the human condition. Such an endeavor could only lead to a better understanding of the "image of God" that is man's crowning glory.

The present scientific advances in the field of animal language-learning could lead to one of two conclusions: either that man is, after all, devoid of any real superiority over the beast (or, as Ecclesiastes 3:19 puts it: *motar ha-ʿadam min ha-behemah ʿayin*), so that man is but another animal, more arrogant and deluded than most, but a brute, nonetheless; or, else, contemporary man might recognize that there is, after all, far more than the physical domination of life on earth that constitutes man's uniqueness, that it is, instead, the cultivation of his spirit that sets man apart. It is to be hoped that the latter conclusion will prevail.

It is told of Reb Shneur Zalman of Liadi that, once, as he was walking in the fields he heard the birds in song. He listened intently for a while, and when queried why he was so engaged, he answered:

Any man whose sense of hearing is not clogged can, if he listens carefully, hear in the voice of every bird in the sky and every animal on land, the voice of God, the voice of *Shaddai*.<sup>26</sup>

Saturated as we are with noise of the "madding crowds" of modernity, perhaps we, too, can learn to listen to the quiet sounds of the birds and the beasts, and in that way to begin to appreciate our proper place in the scheme of things.

25. *Guide* III:48.

26. Cited in A. Shushan, *Baʿalvei Hayyim Be-Sifrut Yisraʿel* (Rehovot: Shoshanim, 1971), p. 61.

# Spinoza's Onslaught on Judaism

ISAAC FRANCK

WHAT THIS PAPER DEALS WITH IS NOT A philosophical problem, but, rather, a socio-psychological one in the history of philosophy. It will be useful to begin by noting that whether a given philosopher may be properly denominated a *Jewish* one is a question that is neither of recent vintage nor uniquely limited to Spinoza. So far as Spinoza is concerned, apart from the judgment rendered against him in 1656 by Amsterdam's Jewish community in its excommunication decree, the controversy triggered by his philosophical ideas in the world of recorded Jewish thought had its beginnings at least as far back as 1703, only twenty-six years after his death. In that year David Nieto, the Sefardic Rabbi of the London Jewish congregation, was accused, by congregation members, of "Spinozism" on the basis of a philosophical sermon that he had preached.<sup>1</sup>

The controversy has continued from that time, through the 19th century and to our own day, in an undiminished crescendo of polarized opinion. As a brief sampling of those who reject Spinoza from the mainstream of "Jewish" thought we might mention, first, Samuel David Luzzato (1800–1865) who said:

Spinoza's books pour contempt on every good belief and every virtue, and everyone who reads them on the assumption that the author was a wise and honest scholar comes close to having his own beliefs and virtuous conduct damaged. Is there anyone pure of heart who will not rise up against all those who exalt, bless, and praise such a man?<sup>2</sup>

Second, is Hermann Cohen (1842–1918), who asserted that Spinoza fully deserved the excommunication; that in the *Theological-Political Treatise* he wrote like the enemy of the Jews before an anti-Jewish world, and that in doing so he committed a "humanly incomprehensible act of treason."<sup>3</sup> Third, is a contemporary traditionalist historian of Jewish thought, Avraham Korman, who in his book, "*Mussagim B'Mahshevet Yisrael*" (1972),

1. Z.H. Ashkenazi, "David Nieto and Pantheism," in *A Treasury of Responsa*, ed. S.B. Freehof. (Philadelphia: JPS, 1963), pp. 176–81.

2. Samuel David Luzzato, *Mehkrei Hayahadut* (Studies in Judaism) (Warsaw: Hazfirah, 1913), Vol. I, part 2, p. 220 (my translation).

3. Hermann Cohen, *Jüdische Schriften*, edited by Bruno Strauss, Vol. III, pp. 333, 361, 363–64, 368, 371. Quoted by Leo Strauss, *Spinoza's Critique of Religion* (New York: Schocken Books, 1965), Preface, p. 19.

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refers twice to "the apostate, Spinoza" (*"Ham'shumad Barukh Spinoza,"* and *"Spinoza hamumar"*).<sup>4</sup>

And as a sampling of those who see Spinoza decidedly *within* the broad spectrum of "Jewish" thought, I single out, first, David Ben-Gurion, a diligent student of philosophy, who numerous times vociferously urged that the Jewish people rescind Spinoza's excommunication; second, the late Professor Leon Roth, who, in a Jerusalem Lecture in 1932, on the occasion of the 300th anniversary of Spinoza's birth, said that "the only way in this matter," i.e., in the understanding of authentic Judaism, "is via Spinoza's understanding of it," for "Spinoza saw clearly that what is characteristic of Judaism are the practical commandments (*mizvot ma'assiyot*)" and that this, as well as its character as a social or collective religion, rather than a religion of the individual, is what distinguishes Judaism from other religions, for example, from Christianity;<sup>5</sup> and third, the late Professor Joseph Klausner, who concluded his Hebrew University lecture in 1927, at the observance of the 250th anniversary of Spinoza's death, with the dramatic proclamation addressed to Spinoza:

The excommunication has been lifted! The sin of Judaism against you has been wiped out, and *your* sin against Judaism is forgiven! *Ahinu atah, ahinu atah, ahinu atah!*—You are our brother, you are our brother, you are our brother!<sup>6</sup>

And, finally, our contemporary, the distinguished scholar, Rabbi Jacob B. Agus, who in his book, *The Evolution of Jewish Thought*, declares, in much more measured tones: "Spinoza belongs in the total panorama of Judaism."<sup>7</sup>

However, as was suggested above, this question is not limited to Spinoza. With varying degrees of acrimony, similar controversies have punctuated the unfolding of Jewish thought throughout the centuries and have characterized the reception accorded to the doctrines of various individual philosophers or of intellectual movements. In the millennial spiritual odyssey of the Jewish people there have often appeared dialectical tensions between philosophy and traditional religious belief; between the philosopher and the religious teacher; between the advocates of the primacy of reason and the advocates of the primacy of faith; between the rationalists and the mystics; between those who maintained that God was transcendent and those who argued that God was immanent; between

4. Avraham Korman, *Mussagim B'mahshevet Yisrael: Ba'aspaklariyah Shel Hehagut Haklalit* (Concepts in Jewish Thought in the Light of General Ideas) (Tel Aviv: Sifriyat, 1972), pp. 84 and 112.

5. Leon Roth, "Mishnato Shel Spinoza Bayahadut" (Spinoza's Doctrine in Judaism) *Moznayim* (Tel Aviv), IV, 26 (June 1932):7 and 6 (my translation).

6. Joseph Klausner, "Haofi Hayehudi Shel Torat Spinoza" (The Jewish Character of Spinoza's Doctrine), in *Philosophim V'hogai Deot* (Philosophers and Thinkers) (Tel Aviv—Jerusalem: 1934), p. 242 (my translation).

7. Jacob B. Agus, *The Evolution of Jewish Thought* (New York: Abelard—Schuman, 1959), p. 300.



those who espoused the doctrine of God's unknowability and those who held that man can know God; between *Hasidim* and *Mitnagdim*; etc., etc. Not surprisingly, Judaism has often had problems with its philosophers. The "philosophical" God of the Jewish philosophers often was not the God of tradition to whom one prays, of whom one asks forgiveness, to whom one gives thanks and sings praises. Often, the God of the philosophers was remote, imperturbable, infinite, and fundamentally altogether different. Were such controversial or rejected doctrines or thinkers to be considered indigenous parts of Jewish thought? One need make only perfunctory reference to the bitterness of the controversy that raged around the philosophical doctrines of Maimonides, the burning of his books at the behest of rabbis in southern France, the proscription of the *Guide of the Perplexed* from study in many *yeshivot* in Eastern Europe, to indicate that the controversy around Spinoza and the questions who is, and whether Spinoza was, a "Jewish" philosopher are neither new nor unique. But the fact is that serious attention to such thinkers and doctrines hardly ever fails to be given in major works on the history of Jewish philosophy, and their legitimate place in the landscape of Jewish thought seems to be a matter of general acceptance. What about Spinoza?

We need waste no time on the frivolous suggestion that a philosopher's *Jewish birth* be the definitional criterion for determining who is a "Jewish" philosopher. Manifestly, the Jewish birth of Samuel Alexander, Henri Bergson, Emile Meyerson, Edmund Husserl, or Ernst Cassirer neither justifies nor assures for them inclusion among the representatives of Jewish thought, nor does it lead historians of philosophy, in general, or authors of text books on the history of philosophy to refer to these men as "Jewish philosophers." But hardly any textbooks, histories, or "dictionaries" of philosophy in the English language fail to include the adjective "Jewish" in front of Spinoza's name when they introduce his works.<sup>8</sup> These considerations, and the long controversy around him in Jewish intellectual history, make it necessary to try to formulate explicitly, or to bring to the surface, tacitly assumed answers to the question of definitional criteria. What do we mean by "Jewish" philosophy? What essential elements must be displayed in a man's work to justify our identifying him as a "Jewish" philosopher? These are not easy questions, and I am not aware of any satisfactory answers to them in the available literature. For the purpose of this paper, therefore, I propose, tentatively, as working suggestions, the following criteria for determining who is a *Jewish* philosopher:

1. Did the philosopher's inquiries, analyses, speculations, and doc-

8. As representative examples see: Samuel Enoch Stumpf, *Philosophy: History and Problems*, second edition (New York: McGraw-Hill Book Co., 1977), p. 256: "Spinoza was the greatest Jewish Philosopher." Also: A.R. Lacy, *A Dictionary of Philosophy* (New York: Charles Scribner's Sons, 1976), p. 207: "Spinoza, Jewish philosopher who was born and lived in Holland . . ."

trines arise out of the matrix of the collective experience, history, thought, and religion of the Jewish people, and were they a response to these collective experiences, doctrines, and traditions (even if the response was, in the last analysis, a critical, negative one that rejected some, much, or even all of the tradition)?

2. Was it the philosopher's intent to contribute to the advancement of Jewish thought, affirmatively or through criticism; were his philosophical ideas and doctrines, thus, addressed principally to an audience of committed Jews, either thoughtful and scholarly in the religious and philosophical life of Judaism, or a mass audience, or both?

3. Have the philosopher's inquiries, analyses, theories, and doctrines, in fact, contributed to the advancement, deepening, clarification, enrichment, reassessment, or revision of essential concepts, ideas, doctrines, and traditions of the Jewish people?

Trying to apply these admittedly crude and gropingly exploratory criteria to Spinoza's thought, within the compass of a brief paper, is a formidable enough task. Such an application is made even more so by an aspect of the contents of Spinoza's *Theological-Political Treatise* (henceforth referred to as *The Treatise*) that is adverted to by S.D. Luzzato and by Hermann Cohen in their assessments of Spinoza quoted earlier. This requires explication. As is well known, a dominant element in *The Treatise* is Spinoza's radical and severe critique of religion. In the service of his advocacy of a socio-political system characterized by freedom of thought, ideas, philosophizing, and religious belief, he wanted the State to be liberated from control by religious authorities and from their utilization of the State to coerce its citizens into religious and philosophical conformity. This necessitated, Spinoza believed, a sharp critique and polemic against Theocracy. And, since the model *par excellence* of Theocracy is contained paradigmatically in the Biblical accounts and in the history of the Jewish people until the Roman conquest and destruction of the Jewish commonwealth, this required, Spinoza thought, a critique of Biblical ideas, of Judaism, and, to some degree, also of Christianity. Moreover, since Maimonides held that the best society would be a *Torah-society*, this fact, for Spinoza, required also an attack on Maimonides.

Another objective of Spinoza's critique of religion was to strip religion of any *philosophical* pretensions. Philosophy is concerned with knowledge, with understanding—of the world, of man, of God, of man's relation to God—and, seeks through such understanding to achieve man's highest goal, namely, the intellectual love of God. Such knowledge, *sub specie aeternitatis*, eliminates all temporal and transitory elements. This achievement, to be possible, requires man to liberate himself from bondage to his emotions and passions, through individual discipline, and through the discipline and obedience required by a proper social order. The job of religion is to teach and inculcate discipline and obedience to moral and social norms of conduct. The Bible is, and should be seen as, a

manual of moral and societal obedience, and not as a *divinely revealed* book that teaches philosophical truths. The prophets are moral teachers, guides to social obedience, and not oracles of philosophic knowledge. The Hebrew Bible, or the Old Testament, is, thus, a socio-political document, the doctrine of which enabled Moses to forge into a people the masses of Jews liberated from Egyptian slavery, and to provide for them a civilizing code of obedience that was to make possible an orderly and viable commonwealth. Not only is the Pentateuch not a divinely revealed book; it was not even written by Moses, as Orthodox Jewish tradition claims, but was written and put together by different people, at different times, in later years, Ezra having perhaps been a principal author. Since it is a human document, the Bible must be studied critically by means of the methods and tools of empirical investigation, rather than accepted dogmatically as the revealed word of God.

There are numerous other elements in the critique of religion contained in *The Treatise* that are equally important and equally, and perhaps even more, at variance with Orthodox Judaism. But in trying to apply to his philosophy the three criteria suggested earlier, what creates difficulties is not Spinoza's heterodoxy, but an altogether different and puzzling element. It is his repeated and persistent singling out of Judaism, Jewish ideas and teachings, Jewish ideals and values, as well as Jewish personalities, for disparagement, downgrading, biting and almost sarcastic hostility; his employment of a *double standard* of evaluation as between Judaism and Christianity; and his reiteration of some of the stereotyped distortions of Judaism that are found in Christian writings and in popular Christian traditions and attitudes over the centuries. What is especially startling and intellectually repugnant about the multiple instances of such slanderous observations and comparisons, a number of which will be reviewed here, is that *none* of them is logically necessary for the support of the principal objectives of *The Treatise*. The deletion of any or all of them would in no way impair the strength of the book's argument and thesis, and, in fact, some of them flatly contradict other and major ideas propounded in *The Treatise* and in the *Ethics*.

However, before reviewing some of Spinoza's "Syllabus of Errors" against Jews and Judaism in *The Treatise*, it would be well to clear up an oft-repeated historical inaccuracy that is not without some significance. As noted earlier, Avraham Korman, in his 1972 book, twice refers to Spinoza as an "apostate." But the fact is that Spinoza never became a *m'shumad*.

He never formally left the faith of Judaism (he was, of course, expelled from Amsterdam's Jewish community), and he never became converted to any form or denomination of Christianity. On several occasions he was urged, importuned and pressured by friends and correspondents to convert, but he refused to do so. In letters in which he replied negatively to those who urged him to accept Christianity, Spinoza asserted, among other ideas, that there are good and just principles in all

religions; that the claim of Christianity to truth as evidenced by its long history, its many adherents, and the many who have suffered martyrdom for it, is matched by other religions; that if the criterion of superiority is martyrdom, Judaism has had many more martyrs; and, in fact, he knows of one Jew who only recently had been burned at the stake for his religious faith, and died in the flames after exclaiming loudly: "Into Thy hands I commit my soul, O God!"<sup>9</sup>—a verse attributed to Jesus before his death on the cross. To another correspondent Spinoza said that the claim that God has assumed human nature is on a par with the claim that a square had assumed the nature of a circle.<sup>10</sup> In *The Treatise* he stated: "I must at this juncture declare that those doctrines which certain churches put forward concerning Christ, I neither affirm nor deny, for I freely confess that I do not understand them."<sup>11</sup> It should be quite clear, therefore, that Spinoza's denigrations of Judaism, in general, and the disparaging comparisons with Christianity, in particular, whatever the explanation for them may be, cannot be interpreted as expressions of a newly-embraced Christianity on his part, because he never did embrace it.

## II

Before attempting to explain these animadversions, let us look at capsulated versions of some of this "Syllabus of Errors":

1. Judaism is *carnal*, its laws being designed to provide only for physical or material needs and values;<sup>12</sup> Christianity is spiritual and teaches laws designed to care for people's spiritual and moral values.<sup>13</sup>

2. Judaism is particularist and exclusivist, its laws having been taught only for the Jews;<sup>14</sup> Christianity is universalist and teaches laws for

9. Barukh Spinoza, *The Correspondence of Spinoza*, translated and edited by A. Wolf (London: George Allen & Unwin, 1928), Letter #76, pp. 353-4.

10. *Ibid.*, Letter #74, p. 344.

11. Barukh Spinoza, *A Theologico-Political Treatise*, in *The Chief Works of Benedict de Spinoza*, translated by R.H.M. Elwes [Volumes I and II bound as one] (New York: Dover Publications, 1951), Chapter I, p. 19. (All Notes below will use the shortened title *Treatise* in references to this work.)

12. *Ibid.*, Chap. III, p. 47: "[I]n the law no other reward is offered for obedience than the continual happiness of an independent commonwealth and other goods of this life . . . security and its attendant advantages." P. 48: "[I]t is enough for my purpose to have shown that the election of the Jews had regard to nothing but temporal physical happiness and freedom." P. 56: "[T]his choice [of the Jews] . . . has no regard, in so far as it is peculiar to the Jews to aught but dominion and physical advantage." Chap V, p. 70: "In all the five books commonly attributed to Moses nothing is promised, as I have said, beyond temporal benefits, such as honors, fame, victories, riches, enjoyments, and health."

13. *Ibid.*, Chap V, p. 70: "Christ . . . taught only universal moral precepts and for this cause promises a spiritual instead of a temporal reward. Christ was sent into the world . . . solely to teach the universal moral law." P. 71: "His sole care was to teach moral doctrines." P. 72: "The New Testament also confirms this view, for, only moral doctrines are therein taught, and the Kingdom of God is promised as a reward." Cf. also Spinoza's *Correspondence*, Letter #75: "[A]ll that the Jews interpreted according to the flesh the Christians interpreted spiritually" (p. 349).

14. *Treatise*, Preface, p. 8: "[T]he law revealed by God to Moses was merely the law of the individual Hebrew State;" Chap. II, p. 41: "The reasonings" [which God presented to Job],

mankind generally.<sup>15</sup>

3. The laws of Judaism were given as coercive laws to enslave the people; they were even cruel, evil laws given by an angry, vindictive God for the purpose of punishing the people, "laws whereby they should not live" (reflecting Ezekiel 20:25);<sup>16</sup> Christianity teaches a doctrine of worship of, and obedience to, God through love and in freedom.<sup>17</sup>

4. Moses was only a *legislator*, who legislated solely for the political purpose of bringing about obedience and social control;<sup>18</sup> Jesus (whom he always calls "Christ") was a *teacher*<sup>19</sup> (a classification higher than legislator) who taught spiritual values and ideals, and, in some sense, a *philosopher* because he *recognized truth as truth*, and taught universal moral principles.<sup>20</sup>

5. Moses communicated with God "mouth to mouth" and "face to face," a mode of communication in which the body was involved;<sup>21</sup> Jesus communicated with God "mind to mind."<sup>22</sup>

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"for the purpose of convincing him . . . are not universal, or for convincing all men." Chap. III, p. 47: "[T]he laws of the Old Testament were revealed and ordained to the Jews only." Chap. V, p. 70: The "many moral precepts besides ceremonies contained in [the five books of Moses] appear not as moral doctrines universal to all men, but as commands especially adapted to . . . the Hebrew people."

15. Ibid., Chap. III, p. 53: "Paul especially desired to teach . . . his doctrine 'that God is the God of the Jews and of the Gentiles.' . . . [T]o all men absolutely was revealed the law . . . which has regard only to true virtue. . . . Paul concludes that . . . God is the God of all nations." Chap. IV, 64: Unlike Moses "Christ was sent to teach not only the Jews but the whole human race;" accordingly, "His mind [was] accommodated . . . to the opinion and fundamental teaching common to the whole human race—in other words, to ideas universal and true." Cf. also Chap. V, p. 70 as quoted above in Note 13, and Chap. XII, p. 170: "The Apostles who came after Christ, preached [religion] to all men as a universal religion solely in virtue of Christ's Passion."

16. Ibid., Chapter II, p. 39: "[T]he rule of right living, . . . was to [the Hebrews] rather a bondage than true liberty . . ." (Moses bid them keep the law and) "terrified them with threats if they transgressed." Chap. V, p. 76: "This, then, was the object of the ceremonial law, that men should . . . always act under external authority." Chap. XVII, p. 233: "[T]he celestial mind was so inflamed with anger that it ordained laws . . . with the purpose of vengeance, for the sake of punishment; so that the laws do not seem so much laws—that is the safeguard of the people—as pains and penalties."

17. Ibid., Chap. III, p. 53: "Paul concludes that . . . to all nations God did send His Christ to free all men equally from the bondage of the law, that they should no more do right by the command of the law, but by the constant determination of their hearts." Chap. IV, p. 65: Jesus "taught His doctrines as eternal truths, and he did not lay them down as laws, thus freeing the minds of his hearers from the bondage of that law . . ."

18. Ibid., Chap. II, p. 39: "Moses taught [the Israelites] . . . like a lawgiver compelling them to be moved by legal authority." Chap. V, p. 70: "Moses does not teach the Jews as a prophet not to kill or steal, but gives them these commandments solely as a lawgiver and judge; he does not reason out the doctrine, but affixes for its non-observance a penalty . . ."

19. Ibid., pp. 70–71: "Christ . . . was sent into the world not . . . to lay down laws, but solely to teach the universal moral law. . . . His sole care was to teach moral doctrines."

20. Ibid., p. 70: Christ taught the moral doctrine "with reference . . . also to the tranquility and blessedness of the individual" and his "mental acquiescence." Cf. also Chap. IV, p. 64: "Christ perceived (truly and adequately) what was revealed . . ." See also above, Footnote No. 17.

21. Ibid., Chap. I, p. 19.

22. Ibid.

Spinoza's arbitrary upgrading of Jesus and downgrading of Moses, *without adducing any kind of evidence for these judgments or any attempt at rational justification*, may be worth quoting at some length:

. . . a man who can by pure intuition comprehend ideas which are neither contained in nor deducible from the foundations of our natural knowledge, must necessarily possess a mind far superior to those of his fellow men, nor do I believe that any have been so endowed save Christ. To Him the ordinances of God leading men to salvation were revealed directly without words or visions . . . the voice of Christ, like the voice which Moses heard, may be called the voice of God, and it may be said that the wisdom of God (i.e., wisdom more than human) took upon itself in Christ human nature, and that Christ was the way of salvation . . . What I have just stated I gather from Scripture (i.e., New Testament) that Christ was the Way of Life, and that the old law was given through an angel, and not immediately by God; whence it follows that if Moses spoke with God face to face as a man speaks to a friend (i.e., by means of two bodies) Christ communed with God mind to mind.<sup>23</sup>

There is an equivocation here, "What I have just stated I gather from Scripture," but the total impact is *not* equivocal.

6. Moses did not perceive God's teachings as eternal truths, nor were they revealed to him as such, but, rather, as

precepts and ordinances, and he ordained them as laws of God, and thus it came to be that he conceived God as a ruler, a legislator, a king, as merciful, just, etc. but such qualities are simply attributes of human nature, and utterly alien from the nature of the Deity;<sup>24</sup> (whereas) *this must not be affirmed of Christ*. Christ, although he too seems to have written laws in the name of God, must be taken to have had a clear and adequate perception, for Christ was not so much a prophet as the mouthpiece of God. For God made revelations to mankind through Christ as He had before done through angels.<sup>25</sup>

7. God had revealed Himself to the (Hebrew) prophets through their imagination,

through words and symbols;<sup>26</sup> (but God revealed Himself) to Christ, or to Christ's mind, immediately . . . and we must need suppose that Christ perceived truly what was revealed, in other words. He *understood* it, for a matter is *understood* when it is perceived simply by the mind without words or symbols<sup>27</sup> (emphasis added.).

8. When Moses ordained God's revelations as laws and ordinances, this was part of his "carnal" concern with the material goals of a system of law and order, and when Moses spoke of God as ruler, king, merciful, just,

23. Ibid., pp. 18–19.

24. Ibid., Chap. IV, p. 64.

25. Ibid.

26. Ibid.

27. Ibid., (emphasis added).



it was because he conceived of God in terms of human nature;<sup>28</sup> whereas, if Christ proclaimed God's revelations as laws, or described God as "law-giver, or prince, and styled Him as just, merciful, etc." it was because Christ "accommodated Himself to the comprehension of the people, . . . it was doubtless in concession to human weakness," and "merely in concession to popular understanding, and the imperfection of human knowledge."<sup>29</sup>

9. The ceremonials and ritual observances of Judaism are contemptuously dismissed as having "nothing to do with blessedness and virtue," and as being significant to the Hebrews only for "their temporal bodily happiness and the tranquility of their kingdom."<sup>30</sup> In connection with this polemic, Spinoza invokes the prophet Isaiah's stern condemnation of the emphasis on rituals and of the sins against moral and ethical principles, as if this prophecy of Isaiah's were not part of the Judaism that Spinoza was downgrading;<sup>31</sup> whereas mild and gentle treatment that is hardly a model of consistency, is accorded to

the Christian rites, such as baptism, the Lord's Supper, festivals, public prayers, and any other observances which are, and have always been, common to all Christendom, if they were instituted by Christ or His Apostles (which is open to doubt), they were instituted as external signs of the universal church, and not as having anything to do with blessedness, or possessing any sanctity in themselves. . . . [Though] such ceremonies were not ordained for the sake of upholding a government, they were ordained for the preservation of a society.<sup>32</sup>

10. Spinoza, who, out of his early and thorough training in Judaism certainly knew better, uses the word *Pharisees* as a term of opprobrium, which is the way it is used in the New Testament and in much of Christian literature. It is the *Pharisees* who, "in their ignorance, thought that the observance of the state law and the Mosaic law was the sum total of morality;" the *Pharisees* "continued practicing these rites after the destruction of the kingdom, but more with a view of opposing the Christians than of pleasing God."<sup>33</sup> The *Pharisees* "vehemently contend that the Divine gift (or prophecy) was peculiar to their nation."<sup>34</sup> Christ, Spinoza says approvingly, "convicted the *Pharisees* of pride and ignorance."<sup>35</sup> Though

28. Ibid.: "[S]uch qualities are simply attributes of human nature, and utterly alien from the nature of the Deity."

29. Ibid., pp. 64-65.

30. Ibid., Chap. V, p. 69.

31. Ibid. The reference here is to Chapter I of Isaiah, which Spinoza surely knew to have become part of the synagogue liturgy as the Prophetic portion read on the Sabbath that precedes the Fast of Av.

32. *Treatise*, Chap. V, p. 76.

33. Ibid., pp. 71-72.

34. Ibid., Chap. III, p. 52.

35. Ibid., Chap. II, p. 41.



Moses Maimonides lived centuries after the age of the *Pharisees*, in attacking him Spinoza refers to him derisively as a *Pharisee*.<sup>36</sup>

11. Moses "does not teach the Jews as a *prophet* not to kill or steal . . . but solely as a lawgiver and judge." The command not to commit adultery

is given merely with reference to the welfare of the state;<sup>37</sup> for if the moral doctrine had been intended with reference . . . also to the tranquility and blessedness of the individual, Moses would have condemned not merely the outward act, but also the mental acquiescence, *as if done by Christ*, who taught only universal moral precepts, and for this cause promises a spiritual instead of a temporal reward.<sup>38</sup>

12. Moses and the Mosaic doctrine are hostile to philosophy,<sup>39</sup> whereas veiled hints seem to imply that Jesus was a philosopher and that his doctrines are more hospitable to philosophy.<sup>40</sup>

13. In connection with his characterization of Judaism's *particularism*, which Spinoza presents as a doctrine of *separatism and hostility to other peoples*, he asserts that Judaism taught its adherents that "they should separate themselves from the rest of the nations: wherefore it was commanded to them, 'Love thy neighbor and hate thine enemy,'" a verse taken from Matthew 5:43.<sup>41</sup> Spinoza reproduces the verse without pointing out the *falsehood* in it, and in a context in which he associates himself with it. For *Spinoza's own words*, just before the words that he cites from Matthew, are "wherefore it was commanded to them," thus conveying his agreement with Matthew's *false* allegation that the Jews were, in fact, so commanded. Surely Spinoza knew better. Surely he knew full well that there is no such teaching in Jewish Scripture, and surely he knew equally well that, indeed, more typical of Hebrew Scriptural teaching is the commandment: "When you see your enemy's beast of burden fallen under its heavy load, you shall help him to relieve the burden."<sup>42</sup> Surely, also, he was fully familiar with the precept in the Biblical Book of Proverbs (24:17) that was later restated as a Rabbinic admonition in the *Ethic of the Fathers*: "Do not rejoice at the stumbling of your enemy . . ."<sup>43</sup>

14. While there are numerous contradictions in *The Treatise*, a number of which various commentators have tried to explain, there is one major, glaring, inexplicable one that is directly related to Spinoza's application of a "double standard" of evaluation as between Judaism and

36. *Ibid.*, Chap. XV, p. 190.

37. *Ibid.*, Chap. V, p. 70.

38. *Ibid.*

39. *Ibid.*, Chap. XI, p. 164: "[O]ther Apostles preaching to the Jews, despisers of philosophy, adapted themselves to the temper of their hearers, and preached a religion free from all philosophical speculation." Chap. II, p. 39: "Moses . . . taught them . . . a rule of right living; inculcating it not like a philosopher, as the result of freedom . . ."

40. See above, Footnotes No. 17 and No. 20.

41. *Treatise*, Chap. XIX, p. 250.

42. Exodus 30:4 and 5.

43. *Pirke Avot* IV, 24.

Christianity. The late Professor Leo Strauss, in his essay, "How to Read Spinoza's Theologico-Political Treatise,"<sup>44</sup> tries to explain some of these apparent contradictions by attributing to the philosopher the intent to conceal some of his ideas. However, the dimensions of the contradiction pointed to below are too large for the Strauss-type of explanation to fit. Spinoza's political philosophy, as formulated in Part IV of the *Ethics*,<sup>45</sup> and repeatedly in *The Treatise* (especially Chapters XIX–XX), requires of the citizen almost unquestioning *obedience* to the State. In Scholium 2 to Proposition 37 in the Fourth Part of the *Ethics*, Spinoza says (basing his view here on III, 30 and IV, 7) that a person can be prevented from doing injury to another person only "by fear of a greater injury," and that in a civil state "law . . . and the prescriptions of a common rule of life" need to be supported "not by reason . . . but by penalties." "In a civil state . . . *Sin* is nothing but disobedience . . ." and "obedience is *merit* in a citizen" (italics in original). In his philosophy of religion, also, Spinoza emphasizes the role of religion as teacher, guide, and force for the implementation of rules of moral conduct: "Revelation has obedience for its sole object."<sup>46</sup> It would have been natural and consistent, therefore, for Spinoza to have spoken approvingly of Judaism's emphasis on *law*, on practical commandments, on ethical conduct, and on obedience to moral principles. Instead, he disparages Judaism's doctrines as coercive, enslaving, material, nonspiritual.<sup>47</sup> Moreover, instead of criticizing them, as consistency would have required him to do, he speaks in laudatory terms about the *antinomian* aspects of Christian doctrine, calling them spiritual and liberating. He also speaks approvingly of the high position that Christian teaching assigns in its moral hierarchy to emotions like *pity*, which, in the *Ethics*, he had called "evil and unprofitable" in a man "who lives according to the guidance of reason,"<sup>48</sup> an emotion of which he says that "a man who lives according to the dictates of reason endeavors as much as possible to prevent himself from being touched by pity."<sup>49</sup>

It should be abundantly clear that this presentation of a sampling out of what we have called the Syllabus of Spinoza's Errors, was not intended either as an apologia for Judaism, or as a polemic against Christianity. Spinoza's critique of aspects of Judaism and his endorsements of aspects of Christianity are, for those who might be interested in them, subjects to be studied and evaluated objectively, on their own. But this is not our focus here. Rather, it is his *uncritical* endorsement of some doctrines that he imputes to Christianity, with no more rational or empirical evidence adduced to support *these* doctrines than is available for the support of the

44. Leo Strauss, *Persecution and the Art of Writing* (Glencoe, Illinois: The Free Press, 1952), pp. 142–201.

45. Barukh Spinoza, *Ethics*, Part IV, Propositions 36, 37, and the *Scholium*.

46. *Treatise*, Preface, p. 9.

47. *Ibid.*, pp. 10–12, and Notes 12, 16, and 18.

48. *Ethics*, IV, 50.

49. *Ibid.*, Corollary.

doctrines which he deplors in Judaism to which they are invidiously juxtaposed; it is his utterly amazing use of a double standard of evaluation in which he disparages doctrines in Judaism and lauds the same doctrines in Christianity; and it is the *puzzling contradictions* between principles central to his own philosophy and the principles implicit in his attacks on Judaism, that the above recital is designed to point to, and to point also to the need to explain this strange behavior on the part of a philosopher whose other works, especially the *Ethics*, as well as his reputation, have habituated us to expect from him objectivity, detachment, precision, rationality, logical consistency, judiciousness, and fairness.

### III

What is the explanation? It is necessary, first, to dispose of two explanations that have been suggested or that suggest themselves, and that seem quite inadequate. The first is that in *The Treatise* Spinoza was really attacking *all* religion when it presumes to exercise control over philosophy, especially Christian religion. But, since Hebrew Scripture is part of Christian Scripture, in attacking the former, Spinoza, in fact, also attacked the established Christianity of his day and its attempts to control philosophical thinking, without making his major goal too obvious. There is, no doubt, a certain amount of truth in this theory, and we shall return to a phase of it forthwith. But it does not seem to account for either the full sweep of the attack against Judaism in *The Treatise* or for the biting, caustic tone in which it is often phrased; nor does it account for the encomiums that are so repeatedly showered on Jesus as compared with Moses, and, directly as well as by implication, on Christian doctrine as compared with Judaism. The second explanation suggested is that the ideal, universal religion that he sketched in *The Treatise*,<sup>50</sup> which Leo Strauss characterizes as neither Judaism nor Christianity but a kind of de-theologized Christianity,<sup>51</sup> required, in Spinoza's opinion, the abrogation of Jewish or Mosaic law because of its particularism. On the other hand, since Jesus was interpreted by him to be a *teacher* rather than a *legislator*, and to have taught universal moral principles, Christianity is not incompatible with the Spinozist universal religion. Once again, while this may have some relevance, it does not suffice as an adequate explanation of Spinoza's almost virulent anti-Judaism.

The conclusions suggested below reflect assessments by earlier commentators such as Luzzato, Hermann Cohen, and, to some extent, Leo Strauss, and the explanations proposed are essentially characterological and are not complimentary to Spinoza. For, over and above the *intellectual* deficiencies that he exhibited in some of his attacks against Judaism, these attacks and his consistent, undisguised hostility seem to be explicable only as overt manifestations of character weaknesses and defects that belie the

50. *Treatise*, Chap. XIV, pp. 186–87.

traditional portrait of Spinoza's personality, discussion of which may appear shockingly iconoclastic.

1. Spinoza never overcame the blow of his excommunication (and of the excommunication and subsequent suicide of Uriel Acosta, about which he knew from his childhood days), and carried its trauma with him for the rest of his life. His resentment and hostility against what he perceived as the intellectual narrowness and religious intolerance of the Jewish community and of the Judaism that it espoused, manifested themselves in vindictiveness and even a hatred against Judaism that is reflected and articulated in *The Treatise*.

2. Spinoza was consumed by a *fear* of the Christian authorities, of their deep-seated prejudice and hostility against dissenting and heretical ideas, and their power to inflict upon dissenters, including himself, severe reprisals (here he shared the fears of the Jewish community that were, in part, the reason for its excommunicating him). By making Judaism the principal and manifest object of his attack, feeling himself, as he did, absolved from loyalty or responsibility to it by virtue of its repugnant exclusionary act, he could perhaps hope to deflect from himself the hostility of the Christian authorities with their built-in anti-Jewish attitudes.

3. His fears also led him to try to *curry favor* with his Christian readers, to a kind of political *sycophancy* in which he tried to please them and the Christian authorities by reiterating many of their traditional denigrations and distortions of Judaism. As Leo Strauss puts it (reflecting here also Hermann Cohen's view):

Spinoza, attempting to achieve the liberation of philosophy in a book addressed to Christians, cannot but appeal to the Christian prejudices which include anti-Jewish prejudices; he fights Christian prejudice by appealing to Christian prejudices; appealing to the Christian prejudice against Judaism, he exhorts the Christians to free essentially spiritual Christianity from all carnal Jewish relics . . . Generally speaking, he makes the Old Testament, against his better knowledge, the scapegoat for everything he finds objectionable in actual Christianity.<sup>52</sup>

4. His fear and his political sycophancy are also reflected in the statement that appears both at the end of the Preface to *The Treatise* and at the conclusion of its closing chapter:

I feel bound to declare here . . . that I have written nothing, which I do not most willingly submit to the examination and judgment of my country's rulers, and that I am ready to retract anything which they shall decide to be repugnant to the laws or prejudicial to the public good. I know that I am a man, and, as a man, liable to error, but against error I have taken scrupulous

51. Leo Strauss, *Spinoza's Critique of Religion*, tr. by E.M. Sinclair (New York: Schocken Books, 1965), Preface, p. 20.

52. *Ibid.*

care, and striven to keep in entire accordance with the laws of my country, with loyalty, and with morality.<sup>53</sup>

This declaration seems hardly consonant with the received image of Spinoza as the courageous, saintly, and solitary fighter for freedom of ideas, or with the “wholly free and disillusioned spirit,” as George Santayana characterized him in his justly celebrated essay, “Ultimate Religion.” Santayana’s tribute attains a memorable level of eloquence when he says that, in addition to “our great debt to Spinoza for his philosophy of nature,”

there is, I think, something for which we owe him an even greater debt; I mean, the magnificent example he offers us of philosophic liberty, the courage, firmness, and sincerity with which he reconciled his heart to the truth.<sup>54</sup>

It will strike some readers as almost sacrilegious to suggest that Santayana’s essentially accurate characterization of Spinoza in his *philosophical doctrines* on metaphysics and epistemology, in the theory of mind, and in ethical theory, does not reflect with complete accuracy Spinoza’s character structure and personal qualities, or his pronouncements on other subjects. Even in the face of the received, traditional image of Spinoza’s personality, with which Santayana’s eloquent description appears to agree, it may not be altogether an act of desecration to consider the possibility of weaknesses and defects coexisting with unmistakably luminous and inspiring philosophical genius.

For almost 200 years Spinoza’s reputation has been the captive of the Romantic imagination in Europe. Deservedly idealized on the basis of the exalting and inspiring purity of the doctrines of his *Ethics* that were discovered by the Romantics about a century after his death, Spinoza became a hero and a saint for the leaders of the Romantic movement in Germany—Lessing, Jacobi, Novalis—with Goethe as its principal figure. The adulation spread across the English Channel, reaching Coleridge, Wordsworth, and others in the Romantic period of Britain’s thought and literature, moved across the Atlantic, and bequeathed to us the idealized portrait of Spinoza as saintly, courageous in his solitariness, flawless in his integrity and honesty, and leading an exemplary personal life that reflected the exalted *amor dei intellectualis* of the *Ethics*. *The Treatise* has been read, when it *was* read, through the prism of the *Ethics*, which filters out the reprehensible elements in *The Treatise* that were sketched above, as philosophically trivial and uninteresting. Significantly, these same anti-Jewish elements were not altogether filtered out for the Christian readers of *The Treatise*. His contemporaries, and Christian readers in the 18th and

53. *Treatise*, Preface, p. 11.

54. George Santayana, *Obiter Scripta: Lectures, Essays and Reviews* (New York: Charles Scribner’s Sons, 1936), pp. 280–297.

19th centuries, found confirmation, in Spinoza's disparagement of Judaism, of many of the stereotypical anti-Jewish attitudes that they had received from the tradition and culture in which they grew up. Moreover, it was a confirmation that came from, of all people, a person who presumably should know, namely, Spinoza, whom they never failed to identify as a Jew.

To those non-Jews who espoused a post-Emancipation Liberalism that included the advocacy of equal civil and political rights for Jews in Europe, *The Treatise* provided a most attractive and congenial rationale for their latent discomfort about *the to them unexpected phenomenon of continuing and persistent post-Emancipation Jewish group existence*, and a justification for their semi-conscious wish that this phenomenon would just disappear and cease to be a source of irritation to them. For many Western Jews, on the other hand, afflicted by a sense of "uncertainty of belonging" (Kurt Lewin's phrase)<sup>55</sup> in post-Emancipation Europe, and carried along by the wave of assimilation and apostasy that swept over them, the denigration of Judaism in *The Treatise* provided added justification for their Jewish self-hate and for their removing themselves beyond the periphery of the Jewish group. Other Jews, though deeply troubled by the hostility to Judaism in *The Treatise*, nonetheless held on to Spinoza as part of Jewry because the great acclaim accorded to him as a philosopher by the non-Jewish world, and the exemplary nobility of character ascribed to him gave them a sense of added dignity in their Jewishness and furnished them with a publicly acknowledged self-validation as Jews that they greatly desired.

However, if, in the interest of historical accuracy, we demythologize and deromanticize Spinoza, and see him plain, warts and all, we may be helped in our search for a rational and responsible approach to the question whether he was a *Jewish* philosopher, through the application of the crude criteria suggested earlier. The demythologized Spinoza is a man whose towering, brilliant, and inspiring genius as manifested in the *Ethics*, and whose nobility of vision as expressed also in the opening paragraphs of his *De Intellectus Emendatione*, as well as in many phases of his personal life, are marred by his understandable resentment and vindictiveness against the people and religion that had banned him, and from whom he proceeded to alienate himself completely; marred by understandable fears of the dogmatic and punitive Calvinist authorities of his day; marred by an obsequiousness toward aspects of Christian doctrine that led him, in *The Treatise*, to employ double standards of judgment, to contradict and traduce some of his own central doctrines, and to titillate Christian anti-Jewish prejudices with which he surely was fully familiar; and marred, as

55. Kurt Lewin, *Resolving Social Conflicts: Selected Papers on Group Dynamics* (New York: Harper & Brothers, 1948), pp. 177–185. "Not the *belonging to many groups* is the cause of the difficulty, but an *uncertainty of belongingness*" (p. 179 [emphasis in the original]).

Hermann Cohen pointed out,<sup>56</sup> by the damage that his diatribes against Judaism in *The Treatise* wreaked on the perceptions and assessments of Judaism in the thought and some of the writings of Western Europe during the following two centuries, including the assessment of Judaism by even so fair and decent a person and philosopher as Immanuel Kant.<sup>57</sup>

The de-romanticization of Spinoza makes it necessary for us also to observe how aspects of his socio-religio-political thought are marred by faulty assessments. Leo Strauss pointed out that Spinoza's adumbration of a new, ideal, universal religion made him "a symbol of that emancipation which was to be more than emancipation but secular redemption."<sup>58</sup> For Spinoza's Romanticist disciples, including many Jews in 18th and 19th century Germany, there was the hope, says Strauss, that as a result of his ideas "the non-Jewish world, having been molded to a considerable extent by Spinoza," would "become receptive to Jews who were willing to assimilate to it."<sup>59</sup> This must have been Spinoza's own hope too, certainly *for himself*, and was, no doubt, a consideration of no minor importance in his decision, after the Jewish community's reprehensible act of excommunication, to sever his relationships from the Jewish community entirely, and to live among non-Jews.

Accordingly, we are justified in inquiring whether his life among non-Jews was more congenial and satisfying than it would have been had he managed somehow to remain within the Jewish community. Were the masses of the non-Jews more open and hospitable to his startling and independent and unorthodox ideas than the masses of the *Jews* would have been? Did he find the world of the *non-Jewish* elite, its scholars and intellectuals, more hospitable to his doctrines than the *Jewish* elite and intellectuals were or would have been? The fact is, of course, that, in spite of the measure of intellectual eminence which he achieved among some scholars, and with the exception of the treatment accorded to him by the few who befriended him (some only temporarily) and corresponded with him, his life among non-Jews was largely that of an exile. His views were suspected, attacked, condemned, and reviled. He was forced to refrain from publishing the *Ethics* in his lifetime and, in the interest of his safety, *The Treatise* had to be published anonymously. We are led to a sadly ironic conclusion when we speculate on what treatment, far worse than excommunication, would have been meted out to Spinoza had he published these two works under his own name during his lifetime. He perceived and publicly deplored exclusiveness and bigotry in his own people, dis-

56. Cf. above, Note 3.

57. See Hermann Cohen, *Die Religion der Vernunft aus den Quellen des Judentums* (Leipzig: Gustav Fok, 1919), p. 391: "Spinoza's polemic became the source of a fundamental misunderstanding of Jewish religion . . . It was from Spinoza that Kant drew his information and his judgment on Judaism" (my translation). Cf. also, Nathan Rotenstreich, *The Recurring Pattern: Studies in Anti-Judaism in Modern Thought* (New York: Horizon Press, 1964), p. 25.

58. Strauss, *Spinoza's Critique of Religion*, Preface, p. 11.

59. Ibid.



paraged even the creative and constructive elements in non-exclusivist Jewish particularism, and went to the extent of falsely distorting it, as in his shabby use of the verse from Matthew. But he bracketed his vision of a universalist religion and social order with a version of Christianity, underplaying the destructive, menacing particularisms in the Christian world around him to which he refers in the Preface, that world with its virulent bigotries and cruel persecutions, that placed his own safety in jeopardy, and that never failed to identify him as Spinoza, *the Jew*. Spinoza misread the realities of religio-socio-political forces, and failed in his assessment of the possibility of extreme universalist liberalism, a utopian idea that, in his thought, became an impediment to developing a doctrine of a pluralism of non-exclusivist particularisms. To borrow the words of Jacob B. Agus, Jewish existence in the Diaspora “no longer possessed any rhyme or reason” for him. Clearly, this was a consequence of his delusively or opportunistically motivated notion that a world purged of “carnal” Jewish particularism would become an Eden of dogma-free and sacrament-free Christian universalism.

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# Leone da Modena's Riti Ebraici

ARTHUR A. CHIEL

"THIS AT LEAST IS MY GREAT CONSOLATION," wrote the Venetian rabbi, Leone da Modena, not long before his demise in 1648, "that, despite death and bitter fate, my name will never be obliterated among Israel and in the world at large."<sup>1</sup> Modena's inordinate hankering after immortality, as noted in his autobiography, in his very extensive correspondence<sup>2</sup> and in the varied works which he wrote, has found its fulfillment in scholarly circles. But it is hardly of a quality that he yearned for. Owing to the candor of his autobiography and, also, because of a certain manuscript of his which was discovered and published in 1852,<sup>3</sup> Modena's career and reputation have been the subjects of extensive debate. His detractors brand him a heretic;<sup>4</sup> his defenders characterize him as an erudite rabbi with humanistic leanings, inspired by the cosmopolitan, life-loving milieu of the late Renaissance.<sup>5</sup>

The furor around Modena was sparked in the mid-nineteenth century when Isaac Samuel Reggio, Italian rabbi-scholar, brought to light two previously unpublished pamphlets out of the Modena archive. One of these was *Kol Sakhal* (Voice of the Fool), a vitriolic attack on halakhic Judaism; the other was *Sha'agat Aryeh* (Roar of the Lion) an uncompleted response to the issues raised in the *Kol Sakhal*. Reggio attributed both of these polemics to Modena, arguing that Modena was indeed *the* heretical author of the anti-traditionalist tract who, fearing that his religious skepticism might some day be exposed, wrote the second work to throw sand into the eyes of his potential detractors.

Certainly Leone da Modena embodied the dynamic and creative qualities of his contemporary Venetian environment. In his autobiography he enumerates no fewer than twenty-six occupations with which he busied himself, at one time or another, until his death at the age of seventy-seven:

1. Yehudah Aryeh Modena, *Hayye Yehudah*, ed. A. Kahanah (Kiev, 1911), p. 42.

2. Ludwig Blau, *Leo Modenas Briefe und Schriftstücke* (Budapest, 1905-06).

3. Isaac Samuel Reggio, *Behinat Ha-Kaballah* (Gorizia, 1852).

4. Reggio, *Op. cit.*; Abraham Geiger in *Leon da Modena, Rabbiner zu Venedig* (Breslau, 1856); Heinrich Graetz in *History of the Jews* (Philadelphia: JPS), Volume 5; Israel Zinberg, *A History of Jewish Literature* (HUC Press and Ktav Publishing House, 1974), Volume 4; Ephraim Shmueli, *Beyn Emunah L'kefirah* (Tel Aviv: Masada, 1962).

5. Isaiah Sonne, *Leon da Modena and the Da Costa Circle* (HUCA, 1948), Vol. XXI, pp. 1-10; Ellis Rivkin, *Leon da Modena and the Kol Sakhal* (HUC Press, 1952); Shlomo Simonsohn, *She'elot U'teshuvot Zikney Yehudah* (Jerusalem: Mosad HaRav Kuk, 1955).

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Here I wish to write down for memorial the variety of ways by which I sought to earn my livelihood: 1. Jewish students. 2. Gentile students. 3. Teaching penmanship. 4. Preaching. 5. Writing sermons for others. 6. Cantor. 7. Secretary of charitable and other societies. 8. Rabbi. 9. Deciding ritual law. 10. Sitting as a judge. 11. Teaching in the synagogue. 12. Confering ordination. 13. Writing letters for others. 14. Teaching music. 15. Writing verses for weddings and tombstones. 16. Composing Italian sonnets. 17. Writing comedies. 18. Producing them. 19. Drawing legal documents. 20. Translations. 21. Printing my own writings. 22. Proofreading. 23. Teaching the art of writing charms and amulets. 24. Selling books of charms. 25. Commercial agent. 26. Matchmaker.<sup>6</sup>

By his own unhappy admission, Modena was involved in some of these disparate vocations out of the urgent need to meet his gambling debts,<sup>7</sup> incurred in gaming, a widespread malaise among Italian Jewry of that period. He condemned the vice, but remained himself addicted to it. Yet, notwithstanding this serious flaw in his character, he was the pride of the Venetian ghetto; he was a scholar, a prolific writer and, above all, a brilliant preacher in Italian. His oratorical talent attracted large congregations of listeners, and among those who came to hear him were aristocrats, churchmen and diplomats.<sup>8</sup>

In 1616, Sir Henry Wotton returned to Venice for a second tour of duty as the English ambassador. An urbane scholar and poet, Wotton had been favored by James I with political assignments abroad.<sup>9</sup> He moved easily, therefore, among Venice's cosmopolitan circle of cognoscenti, which included Leone da Modena. Wotton was impressed by the versatile rabbi, and knowing the enthusiasm which James I had recently demonstrated in sponsoring the English translation of the Bible, he requested Rabbi da Modena to prepare a compendium of the fundamentals of Judaism. Complying with this proposal, Modena prepared a concise work in Italian: *Historia degli Riti Ebraici, Vita e osservanze degli Hebrei di questi tempi*—(The History of the Hebrew Rites, the Manner of Life and Customs of Contemporary Jews). This composition by Modena proved to be of significance in Jewish literature, being the earliest work written by a Jew to describe Judaism to the gentile world. But it was for a limited audience of non-Jewish readers, scholars in particular, that *Riti Ebraici* was initially intended.

In 1635, Modena gave a manuscript copy of the book to Jacques Gaffarel, a French scholar, who proposed that the work be published in France and be made available to a larger audience. Flattered by the proposal, Modena assented, with the rightful expectation that, before *Riti*

6. *Hayye Yehudah*, pp. 64-65.

7. *Hayye Yehudah*, pp. 26, 28, 29, 30, 33, 34, 39, 46, 51, 62 and 63. At age 13, Modena wrote *Sur me-Ra*, a polemical dialogue against games-of-chance. (See: H. Gollancz, *Translations from Hebrew and Aramaic*, [New York, 1909], pp. 161-219).

8. *Hayye Yehudah*, pp. 25-26.

9. *Webster's Biographical Dictionary*. (Springfield, Mass: G. & C. Merriam Co., 1966), p. 1598.

*Ebraici* was published, he would have the opportunity to edit it to avoid the displeasure of the Catholic censors.<sup>10</sup>

Understandably, he was shocked by a letter that he received in April, 1637, in which Gaffarel informed him that *Riti Ebraici* had recently been published in Paris. Instead of rejoicing at this report, Rabbi Leone was "terrified and distressed."<sup>11</sup> Not only was he troubled about his further status as an author, he was even more agitated as he now re-examined his own manuscript of the book. There were, he judged, at least four or five passages which he thought to be inimical to the inquisitorial Catholic censors. The book could endanger not only his personal position but well might spell trouble for the entire Jewish community. Before they summoned him, Rabbi Leone decided to present himself to the church authorities and inform them that the newly published work had appeared without his knowledge or redaction. However, Modena's misgivings were unwarranted; Gaffarel had exercised good judgment, having expunged the controversial passages which might disturb the censors. Moreover, Gaffarel had written a preface in praise of Modena and had dedicated the edition to Claude Mallier, the French ambassador in Venice. Mallier, in turn, despatched a congratulatory letter to Rabbi Leone. At this fortunate turn of events, Modena was now encouraged to publish *Riti Ebraici* in Venice, in its original Italian version. Within a matter of months, in 1639, he reported that the book was selling well at gentile booksellers; in addition, the French ambassador had awarded him thirty-four ducats to help cover the costs of publication.

*Riti Ebraici* filled a need in Christian circles. After its initial publication by Gaffarel in 1637 and by Modena in 1639, it was translated into several languages and went through numerous editions. The first English version was by Edmund Chilmead in 1650. In 1707, Simon Ockley published it in his markedly superior translation, with notes by himself and by the French Catholic scholar, Richard Simon. The latter had translated the Gaffarel edition into French in 1671, including in it two supplements of his own, concerning the Samaritans and the Karaites. In 1863, Solomon Rubin translated *Riti Ebraici* into Hebrew and titled it *Shulḥan Arukh*.

The *Historia degli Riti Ebraici* is not, in fact, a history, as the title suggests; it does not offer sources for Jewish law and tradition. It is, rather, a descriptive narrative of the religious life of Jewry in Modena's time and place, and it is this that makes the work a valuable document, since it offers insight into aspects of Jewish life in cosmopolitan Venice at the beginning of the seventeenth century.

In his introduction,<sup>12</sup> Modena indicates that there had long existed a curiosity about "the Laws, Customs, and Manners of other Countries."

10. *Hayye Yehudah*, pp. 56-57.

11. *Ibid.*

12. All references hereafter are to the Simon Ockley edition: *The History of the Present Jews* (London, 1707).

Eminent scholars had responded to this widespread interest by writing about sundry "Idolatrous and Barbarous Nations." This being the situation, then surely it was time that the interest of "many Christians, of great Piety and Learning" be satisfied with a dependable account of contemporary Jewry's rites and customs. No Christians would deny that their own faith "did originally spring from the Fountain of Infinite Wisdom." Modena was, then, responding to the importunings of Christian prelates and other distinguished persons that he write this work. In summation of his intentions, Modena says:

I have divided this Discourse into five Parts, according to the number of the *Books of the Law of Moses*. In the management of the whole, I have kept myself strictly to the Truth, considering myself as a *Jew*; and therefore ought to be a plain and impartial *Relator* only.

I must ingeniously confess that I have endeavor'd to avoid giving the Reader any just occasion to despise the *Jews*, for their multiplicity of Ceremonies; but have not in the least taken upon me to Apologize for, or defend them; my whole design being only to give a *Just and Faithful Narration*, of them, and not to gain *Proselytes* to them (Introd., n.p.).

As Modena indicated, he divided his work into five parts. *Part One* deals with laws and customs related to the home, personal hygiene, synagogue procedure, prayer and charity. At the outset of this section he makes clear that there are three categories of obligation: *Mitzvot de Oraito* (Commandments of the Law) contained in the Pentateuch, *Mitzvot de Rabbanan* (Expositions of the Rabbins) found in the Talmud, and *Minhagim* (Customs). The latter came into being at different times and places and are not universally observed among "the three Sorts of Jews—the Levantines, the Germans, and the Italians" (pp.23).

Modena explains the *Levantines* to be the Jews of Barbary, the Morea, Greece and those who are called Spanish Jews; the *Germans* include Bohemians, Moravians and Wallachians. The two categories of *Mitzvot* are obligatory for all Jews, but there is a considerable diversity of adherence to the *Minhagim* (Customs).

*Part Two*, consisting of ten chapters, is concerned with the Hebrew language, the courses of study in the *Yeshivot* (Academies), rabbinic ordination, oaths, vows, usury, and food regulations. *Part Three* is devoted to the Sabbaths, Festivals and Fasts, and the manner of their observance. *Part Four* focuses on marriage and divorce laws, levirate marriage, circumcision and redemption of the first-born, and the respect due to parents, teachers and the aged. *Part Five* treats of Jewish heretics, in particular the Karaites, proselytes, confession, penance, death and mourning, paradise, hell, resurrection and Maimonides' thirteen Articles of Faith.

Among the sundry *Minhagim* observed in his day, Modena indicates that it is customary to

leave about a Yard square of the Wall unplaster'd, upon which they write this Verse of the Psalm 137, "If I forget thee, O Jerusalem, let my right Hand forget Her cunning," or these two Words, *Zecher Lachorban*, i.e. In Memory of the Desolation (p.5).

While no figures or statuary are permitted in their Synagogues, because of the Biblical prohibition of graven images, nevertheless,

in Italy a great many take the Liberty to keep Draughts and Pictures in their Houses, especially if they are not in *relievo*, nor a Body, but only the Face (p. 7).

They attach great significance to dreams for which "they bless themselves, and also Fast all that Day" (p. 12). Jewish men do not paint their faces for this is "effeminate" and a violation of Deuteronomic law (p. 15). In Italy and elsewhere the men "generally affect the long Garment or Gown" (p. 16); the women, however, "dress in the Habit of the Countries where they live," but after marriage they wear "a Peruke, never to appear in their own Hair more" (p. 16).

The Jews build their synagogues wherever they can, "it not being now in a Capacity to Erect Lofty and Sumptuous Fabricks" (p. 30). (The grander synagogues of Italy were built at a later time.) In each city are to be found a variety of synagogues

for since the *Levantes*, *Germans* and *Italians*, differ in nothing so much as in the Form of their Liturgies, every one of the Nations choose rather to have a Synagogue by themselves. . . . (p. 36). The *Germans* Sing higher than the rest. The *Levantes* and the *Spanish* Jews use a sort of Tone much after the *Turkish* manner. The *Italians* use a plainer Tone, and not so loud (p. 42).

On being favored with an *Aliyah*,

the Chaunter (*Cazan*) gives them a Blessing, and every one of 'em, promise to give something by way of Alms, or else for the use of the Synagogue, or the Chaunter himself, or to the *Sciamas* (Sexton) (p. 48).

Of their charitableness, Modena writes glowingly that the Jews have great compassion towards all people. But the greatest number of Jews are themselves poor,

and their whole Nation expos'd to more Misfortunes than other People in the world; and besides, those few Rich Men that are found amongst them, having neither Revenues nor Estates, which are only to be called Riches: yet notwithstanding they do relieve all their own Poor; and besides these, they do upon all Occasions help any object of Charity, let him be what he will (p. 56).

They are called upon frequently to provide dowries, to redeem captives and to aid itinerants. They send funds to the Jews of Jerusalem, Safed,

Tiberias and Hebron, in addition to which they give alms to “relieve all Persons whatsoever in Affliction, tho’ they are not Jews, as an Act of Charity due to all Mankind indifferently” (p. 61). Their compassion applies, also, to animals, for “they take great care not to torture any Beast, nor use it ill, nor put it to a cruel Death; considering them as God’s creatures” (p. 62).

Modena reports that there are very “few Jews now-a-days, that can maintain a continuous Discourse in *Hebrew*, or the *Holy Language*, which they call *Lascion acodese*” (p. 63). They speak the languages of the country to which they are native, except for those Jews who have migrated from Germany to Poland, Hungary and Russia; these have “made the *High-Dutch* [*Hoch-Deutsch*] the Mother-Tongue to all their Posterity” (p. 64).<sup>13</sup> As for the pronunciation of Hebrew in their prayers and Bible “they differ so much among themselves, that the *German Jews* can scarce be understood by the *Italians* and *Levantine*” (p. 65). Modena adjudges the pronunciation of Hebrew by Italian Jews to be the clearest, adhering “more agreeably to the Rules of Grammar, which they call *Dichdutch*” (p. 66).<sup>14</sup>

Preaching is done in “the Language of the Country, that all the Congregation may understand them” and preaching privilege is “easily granted to any one that desires it” (p. 67). The preacher stands before a wooden table, with or without his *Talit*, and begins with a verse taken from the Torah portion of the week “which they call a *Nosè*, a Text, which he seconds with a Sentence out of the Rabbins, call’d *Maamar*” (p. 68). After presenting a preface, he proposes his subject pertinent to the lesson, then discourses at length upon it, quoting a variety of Bible and Rabbinic texts. Preaching is done on Sabbath days and on all the festivals.

Earlier, in this paper, we had quoted from the Introduction to *Riti Ebraici*, in which the author asserts that he will not attempt to act the apologete for his brethren. But a reading of Modena’s work reveals that he is, indeed, a defender of Israel; in particular does he demonstrate this when he treats the subjects of commerce and money-lending, and prohibited wine.

On the matter of business-dealings Modena has this to say:

They are oblig’d not only by the Laws of *Moses*, but by the Oral Law also, to be exact in their Dealings, and not defraud or cheat any one, let him be who he will, either *Jew* or *Gentile*: Observing at all Times, and towards all Persons, those Good Rules of Dealing which are so frequently commanded them in the Scripture, especially in Leviticus XIX. from Vers. II to the End (p. 81).

Moreover, he asserts that the charge being levelled against the Jews that

13. Modena is here referring to *Yiddish*.

14. Ockley, in a footnote, differs with Modena’s evaluation. Says Ockley: “Our Author’s being an Italian himself, has prejudic’d him in favour of an Italian Pronunciation; notwithstanding the Pronunciation of the Spanish Jews is allow’d to be the best.”



they take a daily oath to cheat some Christian is a dastardly untruth. The writings of a variety of rabbis attest to the fact that it is a far greater sin to wrong a Christian than is it even to cheat a fellow religionist. It is no less than "*Chillul Ascem*, Prophaning the Name of God, which is one of the greatest Sins" (p. 82).

Alas, Modena continues, the circumstances of the Jews' "long Captivity," the laws prohibiting them from purchasing land and their exclusion from most areas of gainful employment have "debased their spirits" and they have, perforce, strayed from Judaism's high ethical standards. That is why they have been driven to take usury, "notwithstanding it is said in Deuteronomy, ch. 23, ver. 19: Unto a Stranger thou may'st lend upon Usury, but unto thy Brother thou shalt not lend upon Usury" (p. 83). And who is it that is meant by "Stranger" asks Modena—none other than the seven ancient nations mentioned in the Bible. But the nations among whom the Jews now dwell, especially the Christians, from these usury must not be taken.

As for the ancient rabbinic prohibition which asserts "that it is unlawful for a *Jew* to drink wine, which was either made, or touch'd by one who is not a *Jew*," Modena indicates that "this is observed only by the *Levantine*s and *Germans*" (p. 95). The Italian Jews do not hold to this prohibition; they reason that it applied only when they lived among the idolaters of old. The contemporary peoples among whom they dwell do not fall into that category and the wine prohibition is, therefore, no longer valid. Yet another ancient tradition on which Italian Jewry have compromised is that of going bareheaded. They do observe the wearing of headgear among themselves and in their synagogues. However, "living as they do among Christians, where this custom [bareheadedness] is used in Reverence to Superiors, they use the same" (p. 16).

Cecil Roth has rightfully suggested that Leone da Modena ought to be considered "the first of the modern rabbis."<sup>15</sup> He was the first Jewish scholar whose goal it was to offer an exposition of Judaism, and no other writer before him had represented it to the Christian world as fully and openly as he did. His *Riti Ebraici* was the first compendium of the Jewish religion for general dissemination. Only one other Jewish scholar of that age can be compared with Modena—Manasseh ben Israel. But while the latter enjoyed the advantage of Holland's Protestant environment, Leone da Modena carried on his efforts, indefatigably, in the shadow of the Catholic church. Significantly, he was favorably mentioned by many Christian scholars and preachers.

Modena was a highly complex character, as is clearly revealed in his autobiography. In fact, it was his candor which gave rise to a not inconsiderable controversy among Jewish scholars of the 19th century. But it cannot be gainsaid that he was also a bold champion in behalf of Judaism

15. In *Leone da Modena and the Christian Hebraists of His Age*, Israel Abrahams Memorial Volume (Vienna, 1927), p. 384.

and Jewry, as is amply attested by his prolific writings. Aside from *Riti Ebraici*, he published, during his lifetime, thirteen other works related to various aspects of Judaism and left a legacy of an almost equal number of manuscripts, some of which were published by scholars of a later period.<sup>16</sup>

In his will, which da Modena wrote in 1634, he asked for the simplest rites at his funeral.

I would insist that no praises be heaped on me; let it be said only that I was never a hypocrite, that I was inwardly and outwardly at one. . . . Let a durable monument be placed upon my grave, and on it let there be inscribed the words: *Acquaint now thyself with Him and be at peace.* . . . (Job 22:21).<sup>17</sup>

16. Simonsohn, *Op. cit.*, pp. 15-17.

17. *Hayye Yehudah*, pp. 69-71.

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# *Is Conservative Judaism—Conservative?*

ELLIOT B. GERTEL

The Jewish radical is an anomaly: the traditions of race and religion, the Jewish devotion to family, old usage, spiritual continuity, all incline the Jew toward conservatism. It is exclusion from society which provokes the Jewish social revolutionary. Karl Marx, never able to free himself from this complex resentment, became a hater of Jewry as well as of capitalism: but Disraeli, ignoring the hoots of "Jewboy" which greeted him at the hustings, declared that Sinai and the Hebrew prophets would save Western society from the pulverization impending from the spread of Benthamite ideas.

—Russell Kirk<sup>1</sup>

As its very name exemplifies, "Conservative" Judaism cannot be understood sympathetically, nor find peace within its own house, unless it is perceived as a conservative ideology. Indeed, it is surprising that the movement's ideologues and critics have not stressed that its *name* is one of its problems.<sup>2</sup> One need only consider a fascinating complaint of Mordecai M. Kaplan, which ought to be cited at length:

We lack a definite appropriate adjective to describe the nature of the particular contribution to Judaism that we as a group are endeavoring to make. . . . [W]e might have preferred to remain adjectiveless; but . . . we would expose ourselves . . . to the danger of having others foist on us adjectives that are misrepresenting and misleading. This danger has been actualized by having our approach to the problem of Judaism identified in the minds of the general public as conservative. No unhappier term could have been wished upon us by our opponents. These days men realize more vividly than ever the inadequacy of ancient ideologies and systems, though they know enough not to ascribe that inadequacy to the mental or spiritual incapacity of the ancients, but to their having lived in an infinitely simpler world than ours. . . . To put oneself down as conservative at this time is practically to pronounce oneself to be unfit to be of any help to those who yearn for guidance and inspiration in this highly complicated life of ours. From what I know of the majority opinion of . . . the Rabbinical Assembly I am convinced that the term "Conservative" is a misnomer. . . . With the habit which people have of running as they read, and judging by labels, it is a handicap to have a label which misrepresents, prejudices, and alienates.<sup>3</sup>

Kaplan, who made these observations in 1933, when he was President of the Rabbinical Assembly, fell one step short of dismissing the name,

1. Russell Kirk, *The Conservative Mind* (Chicago: Henry Regnery Company, 1953), pp. 233–4.

2. One fine exception is the treatment of "The Conservative Rabbinate," by Max J. Routenberg, *Decades of Decision* (N.Y.: Bloch, 1973), p. 131.

3. M.M. Kaplan, "President's Message" (May 2, 1933). *Proceedings of the Rabbinical Assembly of America* (1939).

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"conservative" as an adjective imposed from without! Conservative rabbis are still uncomfortable with the name of their movement.

What is meant by the term, "conservative," in Conservative Judaism? The Sefardic founding fathers of the Jewish Theological Seminary were not thrilled by the connotations of the word. Sabato Morais, who had wanted to call the Seminary "orthodox," felt that the word, "conservative" "had the flavor of temporizing and the odor of compromise; it was sometimes called fifty-fifty Judaism."<sup>4</sup> But the Seminary's position was coming to be known as "conservative," perhaps in opposition to the adherents of radical Reform Judaism who delighted in styling themselves as "liberal."

Solomon Schechter did not fight the term "conservative," but perpetuated it. Mordecai Waxman, like many Conservative rabbis, believes that the term stuck because the movement intended to "conserve" traditional Judaism.<sup>5</sup> This is the way many laymen understand the word. But Robert Gordis was closer to its true origin when he observed that the name was borrowed from English (Jewish) Orthodoxy, "with which it had a slight accidental connection."<sup>6</sup> Yet the relationship of Conservative Judaism to the British religious mentality (whether Jewish or non-Jewish) is, I submit, far from "slight" or "accidental." Schechter spent too much time as a professor at Cambridge to perpetuate the term "conservative" without meaning more than the verb "to conserve." In England, the term was pregnant with the philosophy and world-view eloquently outlined by Edmund Burke (1729–1797), the father of British conservatism. And Schechter, the father of American Conservative Judaism, could not but have imbibed that philosophy, even though he warned that the adjective "conservative" denotes, in popular usage, "being fearful of change," and that the status quo of the movement must not be "squeezed into a fixed and permanent form."

# I.

While a rose by any other name would smell as sweet, Conservative Judaism by any other name would not have to come to grips with conservative thought. The charge of inadequate ideology has often been levelled against the movement. But once it is understood as a *conservative* ideology, its critics may understand once and for all that it is *not* a movement *without* ideology. It is a movement uncomfortable with a very definite and a very solid ideology.

In *A Program for Conservatives*, Russel Kirk, the most eloquent American exponent of Burkean conservatism, describes several qualities of the American conservative. Among these is, first and foremost, a

4. Norman Bentwitch, *Solomon Schechter: A Biography* (N.Y.: Burning Bush Press, 1958), p.12.

5. Mordecai Waxman, *Tradition and Change* (N.Y.: Burning Bush Press, 1958), p.12.

6. Robert Gordis, "A Program for American Judaism," in Waxman, *Op. cit.*, p.229.

belief in an order that is more than human, which has implanted in man a character of mingled good and evil, susceptible of improvement only by an inner working, not by mundane schemes for perfectability. . . . Men and nations . . . are governed by moral laws; and political problems, at bottom, are moral and religious problems.<sup>7</sup>

The conservative also believes in variety and complexity as the "high gifts of the truly civilized society;" he is not impressed by the uniformity and standardization of liberal and radical planners. Another emphasis of conservatives is upon leadership, and on a distinction of order, wealth and responsibility which leads to distrust of a centralized power. Finally, the conservative retains a "prejudice against organic change . . . ; an inclination to tolerate what abuses may exist in present institutions out of a practical acquaintance with the violent and unpredictable nature of doctrinaire reform."<sup>8</sup>

If American Conservative Judaism is in any way akin to American conservative thought, then it should somehow share these qualities. If it does not, then it functions under the wrong name.

Conservative thought, as we have seen, has always respected human evil or "sinfulness" as a reality which does not allow for simple programmatic solutions to social problems. In *Aspects of Rabbinic Theology* (1910), Schechter devoted six chapters to showing that classical Judaism is as concerned with sin as is any Christian sect. Classical British conservatism, as articulated by Edmund Burke, asserted that "original sin" would thwart any liberal utopianism, Rousseau's denial of sin notwithstanding. While we Jews have always regarded man as rising-and-falling rather than as fallen, we have always taken sin seriously, especially in our mystical literature. Gershon Scholem has shown that Kabbalistic literature contains a uniquely Jewish doctrine of the "fall" of man.<sup>9</sup> While Judaism has never shared the Christian view that man is innately "perverse," yet, Paul Ricoeur, the distinguished Catholic theologian, has aptly observed that the Jew

repents not only for his actions, but for the root of his actions. . . . Thus the spirit of repentance discovered something beyond our acts, an evil root that is both individual and collective, such as the choice that each would make for all and all for each.<sup>10</sup>

Schechter's study of the Rabbinic emphasis on sin would tend to indicate his affinity with conservative thought. Yet many Conservative ideologues seem to ignore, or to gloss over, the concept of sin. The only Conservative ideologue who deals squarely and fully with it is Robert Gordis, particularly in his volume, *Judaism For the Modern Age* (1955). A

7. Russell Kirk, *A Program For Conservatives* (Chicago: Henry Regnery, 1962), p. 41.

8. *Ibid.*, p. 43.

9. See G. Scholem, *Major Trends in Jewish Mysticism* (N.Y.: Schocken, 1941), pp. 236 ff.

10. Paul Ricoeur, *The Symbolism of Evil* (Boston: Beacon Press, 1967), pp. 240-1.

Bible scholar, Gordis has imbibed the essentially conservative teachings about sin which characterize Scripture!

That Conservative Judaism has wandered from conservative doctrines of sin, as isolated in Judaism by Schechter, is indicated by various calls for a "rediscovery" of sin. Long ago, Milton Steinberg decried modern theology's failure to come to grips with sin.<sup>11</sup> More recently, Rabbi Bernard S. Raskas, writing in the *United Synagogue Review* (Spring 1975), a popular organ, urged that we use the word "sin" more often, in order that we may feel a little more guilty about social evils, such as pollution. Although this is hardly a call to a conservative view of sin, it does reflect the feeling of a leading Conservative preacher that even the word "sin" does more to make us aware of the seriousness of human evil than does all the liberal "consciousness raising."

The failure to deal squarely with the concept of sin does not necessarily mean that the leading Conservative ideologues have all embraced the liberal aversion to the very word "sin." But it is clear that Schechter intended Conservative Judaism to share the classical conservative respect for sin as man's perennial foil. The movement may be suffering from an identity crisis because it has wandered from this first and basic concern of conservative thinking. As Richard Rubenstein noted in a perceptive essay, a graphic sense of sin and atonement is essential to any religion if it is to be aesthetically and emotionally satisfying.<sup>12</sup>

## II

As regards the conservative value of varitey and complexity, it would seem that there has been a levelling process which has threatened the identities of individual Conservative synagogues. Solomon Schechter welcomed to the Seminary all points of views, and promised:

I would consider my work, to which, with the help of God, I am going to devote the rest of my life, a complete failure if this institution would not in the future produce such extremes as on the one side a raving mystic who would denounce me as a sober Philistine; on the other side, an advanced critic, who would rail at me as a narrow-minded fanatic, while a third devotee of strict orthodoxy would raise protest against any critical views I may entertain.<sup>13</sup>

When he founded the United Synagogue of American in 1913, he voiced a "strong personal appeal to all such congregations as have not accepted the Union prayer-book nor performed their religious devotions with uncovered heads."<sup>14</sup> The parameters of the Conservative Movement, as

11. See Milton Steinberg, *Anatomy of Faith*, ed. A. A. Cohen (N.Y.: Harcourt, Brace and Co., 1960), pp. 279 ff.

12. See Richard L. Rubenstein, "Atonement and Sacrifice in Contemporary Jewish Liturgy," in *After Auschwitz* (N.Y. and Indianapolis: Bobbs-Merrill, 1966).

13. Cited in Waxman, *Op. cit.*, p. 104.

14. *Ibid.*, p. 170.

conceived by Schechter, were, therefore, quite large, with ample regard for the varitey and complexity prized by all conservative thinkers.

And, yet, a process of uniformity *has* manifested itself within the Conservative movement. Now I would concede that it is perfectly possible and legitimate for hundreds of thoughtful congregations to evolve the same forms of worship, after having experimented with other forms. But I fear that many Conservative congregations may be doing what they do simply because of the pressures of internal politics, or because of a misguided feeling that it is better for "the movement" to be unified by common ideology and practices.

The paradox of all conservative thought is that it finds coherence *only* in variety and complexity. While the goal may not necessarily be to have eight hundred congregations with eight hundred different rituals and ideologies, Conservative congregations will never feel at home with themselves if they do not try to isolate and to perpetuate their own individual identities and inclinations. Most congregations, for example, use the *Sabbath and Festival Prayer Book* (1946), which many regard as the "official" Conservative prayer book because it happened to be the product of a joint commission of the Rabbinical Assembly and the United Synagogue. There are, however, other legitimate Conservative rituals, such as that of Rabbi Ben Zion Bokser, the most traditional, and the Rabbinical Assembly's more "contemporary" prayer books for weekdays and for the High Holy Days. The only Conservative synagogue with its own independent ritual is Adath Yeshurun in Elkins Park, Pa., which uses the *Seder Abodah* prayer books for Sabbaths, Festivals and weekdays (1951) and for the High Holy Days (1959) all prepared by Rabbi Max D. Klein (1886–1973). These are examples of liberal Conservative liturgy. In fact, Schechter was probably thinking of this congregation when he laid the parameters for the United Synagogue, of which Adath Yeshurun was one of the earliest members, even though its male members worshipped without prayer shawls (but with hats).

The Rabbinical Assembly and the United Synagogue ought to call a new commission to endorse *any* and *all* rituals which show loyalty to the *mat-be'a hat'fillah*, the classical outline of obligatory prayers to which all Conservative congregations are dedicated. Scholarly research into the development of the liturgy shows that there is ample room for variation. Solomon Schechter spoke of the need to create a Conservative ritual based upon purer Gaonic traditions. If Conservative leaders were more comfortable with the conservative doctrine of diversity and complexity, those who are so inclined might produce liturgies that would fulfill Schechter's vision.

It should be noted that much of the levelling regarding practice in Conservative congregations centers around the role of women. In the 1940s, several Conservative congregations segregated the sexes during worship. Only a few years ago, two out of four Conservative synagogues in



Montreal maintained the practice. Now, only one of those—albeit the largest—holds out against the powerful trend for mixed seating.

Unfortunately, most laymen and some rabbis maintain the peculiarly liberal view that all religious development moves, of necessity, from the primitive to the more sophisticated, from the outmoded to the superior form. This view is, needless to say, far less tolerant than is the classical conservative view that various traditions and institutions deserve to be preserved simultaneously. The result of such thinking can be an unconscious drive for uniformity, a “monkey see, monkey do” attitude, which views adoption of the majority practice as “progress,” pure and simple.

Some traditionalists have seen the general trend toward female assumption of former “male” roles as a threat to the authority of those rabbis who wish to preserve the halakhic status quo. Yet the levelling of practice is by no means a threat to the traditionalists alone. The more “left-wing” congregations are suffering identity crises because new rabbis and laymen pull them more and more into the center. The *havurah*-movement, with its attempt to eliminate “performances” from services and to substitute greater “participation,” has influenced the discontinuation of some fine syntheses of aesthetics and worship which characterized certain well-established congregations. Synagogues that once conducted services with choir and organ, have done away with these altogether and have, in the process, surrendered the classics of European and American synagogue music to hand-clapping, guitar playing, or trite and outworn pseudo-hasidic melodies.

It is, of course, quite legitimate for a congregation to decide that popular melodies, rather than sophisticated choral arrangements, are better suited to engendering the spirit of prayer. The tragedy is, however, that in some congregations this choice is made because of the preferences of a loud and politically nimble minority. Such change in policy is legitimate only when there has been a *conscious* effort on the part of a responsible majority—or its appointed representatives—to change the character of the congregation. Yet, some individuals who now prefer to model their synagogues after Ramah camps, fail to take into account that those synagogues had been characterized by specific aesthetic traditions.

Solomon Schechter urged Rabbi Herman H. Rubenovitz, an early Seminary graduate, to study and to emulate the great temples of Western Europe. Rubenovitz, by the way, was the first rabbi to introduce the organ and the mixed choir into a non-Reform New England congregation.<sup>15</sup> Perhaps the West European synagogue, which declined in influence after the Nazi debacle, no longer offers an attractive pattern to American Jews. Yet much fine music has been composed in this country and in Israel for the synagogue, in addition to those classics of West European (and East European) *hazzanut* which will never fade. If a synagogue has a tradition

15. See Herman H. Rubenovitz and Mignon L. Rubenovitz, *The Waking Heart* (Cambridge, Mass.: Nathaniel Dame, 1967), p.32

of incorporating such music into its worship, its present congregants have the responsibility not to break entirely with the past nature of the institution, unless there is an entirely new constituency. Yet even if that new constituency is in the majority, they must consider that a total change in the character of the congregation will result in the limitation of opportunities for such music to inspire prayer, as it was intended to do.

While the Conservative movement has always engaged in "controlled experimentation" (Mordecai Waxman) or in "innovation without regimentation" (Simon Greenberg), it was always taken for granted that individual congregations would develop their own characters, which would determine the boundaries of such healthy experimentation. Perhaps the Conservative movement has experienced a decline in morale because individual congregations show loss of identity.

### III.

The emphasis on distinction in responsibilities, which characterizes conservative thinking, seems to be eroding in Conservative Judaism. American conservative thinkers have always equated radical feminism either with socialism (Henry Adams), or with moral laxity, or both. In Schechter's time, the emphasis on the distinction of responsibility between the sexes manifested itself in the need to find a role for women. In his address at the Founding Convention of the United Synagogue (1913), he said:

I would even suggest that the Union assign a certain portion of its work to women, and give them a regular share in its activities. They can become more than an auxiliary to us; indeed helpful in many respects where, as conditions are in this country, their influence is more far-reaching than that of their husbands.<sup>16</sup>

Here, Schechter was advocating what soon became the National Women's League of the United Synagogue of America (now the Women's League for Conservative Judaism). He also included in his *Studies in Judaism* a chapter on "Women in Temple and Synagogue" which favored confirmation for girls.<sup>17</sup>

It is interesting that in Conservative Judaism, as in other conservative movements, the emphasis on a distinctive responsibility for women led to an important women's organization. Indeed, the role of women became so great in Conservative Judaism that Cyrus Adler, Schechter's successor, complained in 1918 that the men had stepped aside and were abdicating their role.<sup>18</sup>

Conservative Judaism has sought a feminism sensitive to, if not en-

16. Cited in Waxman, *Op. cit.*, p. 171.

17. See *Studies in Judaism*, First Series, pp. 313-325.

18. See Adler's address of 6/13/1918, cited in Israel Goldstein, *A Century of Judaism in New York* (N.Y.: Congregation B'nai Jeshurun, 1930), p. 268.

tirely restricted by, the categories of Jewish Law,<sup>19</sup> which are now being re-studied in the light of a general trend toward greater female participation in religious rites. Yet there are numerous psychological, social, and halakhic factors which must be taken into account in re-defining woman's role. Feminism in Conservative Judaism would, it seems to me, have to operate from a twofold perspective. First, it would refrain from denouncing the tradition as "sexist" (as if this abused term could be used as a value judgment for past concerns which may have been as legitimate as our own) and anachronistic. The emphasis would be on understanding the historical and social context of sexual distinctions and on respecting those who still prefer to operate within traditional categories of behavior. Secondly, feminists within Conservative Judaism must share the general conservative viewpoint that there is a distinction to be made in the roles of men and women, just as there is distinction of responsibility to uphold in all facets of human life, but that woman's role is very difficult to define, as the emotional reactions to the feminist trend have evidenced.

Feminism, from a conservative standpoint, can never justify itself as the personal search of even a majority of women for certain "rights" long denied them. No trend or idea can justify itself that way to conservative communities. Furthermore, the Jewish tradition never speaks of "rights" with regard to ritual observances, but of "obligations." With respect to both conservative thinking and Jewish tradition, then, the feminist trend must justify itself as a way to strengthen *social* and *institutional* bonds.

Feminism best justifies itself as a way to enrich society through emphasis on the dignity and right to self-betterment shared by all human beings. But the wisdom of conservative thinking is that society cannot be enriched by sudden legislation, no matter how overdue, that disturbs a substantial number of its members. The truth is that there has been a wave of reaction to feminism in religion by Jewish intellectuals who do not regard themselves as defenders of Orthodoxy.<sup>20</sup> The conservative cannot fail to take this phenomenon into account, and the Conservative Jew, no less, must take cognizance of, and be tolerant of, the wide spectrum of opinion within his own movement. The widespread resistance to radical feminism in Jewish and general society indicates that many people still believe that sex-role differentiation is healthy, even though society must somehow make such a distinction without obstructing the achievement of women.

It is no more presumptuous to speak of a special role for *women* than to affirm a special role for the *Jew*. The latter doctrine is, perhaps, the

19. On these "categories," see David M. Feldman, "Women's Role and Jewish Law," in *Conservative Judaism and Jewish Law*, ed. Seymour Siegel with Elliot Gertel (N.Y.: The Rabbinical Assembly, 1977), pp. 294-305.

20. See, for example, Hillel Halkin, *Letters to an American Jewish Friend: A Zionist's Polemic* (Philadelphia: The Jewish Publication Society, 1977), p. 136; and Lucy S. Dawidowicz, "On Being a Woman in Shul," in *The Jewish Presence* (N.Y.: Holt, Rinehart and Winston, 1977), pp. 46-57.

most basic Jewish sense of distinction of responsibility. After all, the *Havdalah* prayer does praise God for making a distinction "between the holy and the profane, the light and the darkness, and Israelites and the other nations, the Seventh Day and the six workdays." For Conservative Jews to be *conservative* Jews, the emphasis on distinction of responsibility must remain. Significantly, most Conservative ideologues, with the exception of Mordecai Kaplan and those who followed him into the now independent Reconstructionist Movement, have subscribed to the doctrine of the Covenant of the "chosen people."<sup>21</sup> Like distinctions between the sexes, distinction between peoples are distrusted by much of modern thinking. Both issues are very complex, and are sources of great soul-searching on the part of the modern Jew. Yet conservative thinking understands that those issues cannot be ignored. And Conservative Judaism will hardly deal effectively with those issues if it impatiently brands all distinctions of responsibility as anachronistic.

Dr. Gerson Cohen, the Chancellor of the Seminary, asserted, some years ago, that it is a *non sequitur* for a Conservative young woman to look "naturally" to the Seminary to qualify her for ordination as rabbi. He explained that a self-avowed Conservative Jew is "sensitive and committed to deeply rooted religious traditions," and that admitting women for ordination *at that time* "would hardly reflect the consensus of the Conservative movement, whether of its laity or of its professional leadership." Defending these observations in *Outlook* magazine, the official organ of the Women's League for Conservative Judaism, Dr. Cohen insisted:

The role of the Seminary, I contend, is not to innovate and create new social forms but to teach people to study, teach, preserve and fulfill. Ultimately, if society changes, the Seminary's form and content will, too. Such adaptability has been one of the fundamental secrets of Jewish survival and vitality. But the enduring role of an academy is to transmit the legacy of the past and the yardsticks of judgment by which to evaluate new phenomena.<sup>22</sup>

While I suspect that, at the time, some of his readers regarded this argument as an evasion, the Chancellor here shows himself to be one of the few Conservative ideologues who is attempting to restore the delicate balance between the clamor for change and the distinction of responsibility as demanded by conservative thinking. The article in *Outlook* is one of the few affirmations within the literature of the Conservative movement that the word "conservative" (in all its implications) must be interpreted, rather than ignored, in any discussion of the policies of the Seminary. One must note that Dr. Cohen did not rule out the ordination of women at a future time. No conservative thinker dare proscribe any possible change.

21. The best Conservative treatment of the doctrine of the "chosen people" that I have seen is by Arthur Hertzberg, "On Jewish Chosenness," in *Jewish Heritage Reader* (N.Y.: Twayne, 1965), pp. 131-7.

22. *Women's League Outlook*, Winter 1973.

Indeed, he is now advocating the ordination of women. Others, who have not changed their minds, are going along for the sake of peace. As Russell Kirk observes:

Conservatism never is more admirable than when it accepts changes that it disapproves, with good grace, for the sake of a general conciliation; and the impetuous Burke, of all men, did most to establish that principle.<sup>23</sup>

#### IV.

The last characteristic of conservative thinking, as outlined by Kirk, is that it shuns “organic change” and sometimes even tolerates abuses in present institutions in order to avoid the “violent and unpredictable nature of doctrinaire reform.” One glaring abuse in the Jewish institution of marriage and divorce was the plight of the *agunah*, the “chained woman,” unable to remarry because her husband was unwilling or unable to give her the traditional *get* (bill of divorce). The Conservative movement suffered along with the distressed *agunah* until the traditional *ketubah* (marriage contract) was modified, by expert Jewish legalists, so that the *bet din* (court) of the Rabbinical Assembly could make itself an arbitrator if her spouse refused to grant a Jewish divorce.<sup>24</sup> Although, as Russell Kirk notes,<sup>25</sup> the relaxing of divorce laws is an old liberal solution to family troubles, the Conservative movement was justly concerned with improving the status of women, and not with making divorces easier. After all, Rabbinic authority is required to terminate any Jewish marriage.

As we have seen, conservatives are willing to accept changes—even those of which they disapprove. Edmund Burke wrote:

We must all obey the great law of change. It is the most powerful law of nature, and the means, perhaps, of its conservation. All we can do, and that human wisdom can do, is to provide that the change shall proceed by insensible degrees. This has all the benefits which may be in change, without any of the inconveniences of mutations.<sup>26</sup>

Most people cannot believe that obedience to the “great law of change” is one of the basic tenets of conservatism.

Solomon Schechter laid the groundwork for such “insensible” change in his concept of the “collective conscience of Catholic Israel.” As he put it:

Since . . . the interpretation of Scripture or the Secondary Meaning is mainly a product of changing historical influences, it follows that the centre of authority is actually removed from the Bible and placed in some *living body*, which, by reason of its being in touch with the ideal aspirations and the

23. Kirk, *The Conservative Mind*, p. 42.

24. See Rubenovitz, pp. 61–7; and Routtenberg, pp. 137 ff.

25. Kirk, *A Program For Conservatives*, p. 79.

26. Cited by Kirk in *The Conservative Mind*, p. 41.

religious needs of the age, is best able to determine the nature of the Secondary Meaning.<sup>27</sup>

This view of the final authority for Jewish Law as resting within the practice of the people was first articulated by Rabbi Zechariah Frankel, the founder of German "Positive Historical Judaism" (the prototype of American Conservative Judaism) and has ample precedent in Rabbinic literature.<sup>28</sup>

Some conservative thinkers may find Schechter's notion of Catholic Israel quite disappointing, especially since it appears to deify the people by investing them with the power for religious change. The Conservative movement in Judaism has probably experienced so much soul-searching because Schechter's criterion for change has been abused. Indeed, Arthur A. Cohen points out that Mordecai Kaplan apotheosized the Jewish people in his Reconstructionist ideology.<sup>29</sup> Fortunately, Schechter found a brilliant defender and interpreter in Robert Gordis, whose classic essay, "Tradition as Growth and Development,"<sup>30</sup> carefully spells out all the implications of the Catholic Israel concept. "Catholic Israel," Gordis explains, "embraces all those who observe Jewish law in general, although they may violate one or another segment of it, and who are sensitive to the problem of their non-observance because they wish to respect the authority of Jewish law." Catholic Israel also includes "the generations gone before," whose "practice cannot permanently bar the way to growth, but . . . must necessarily exert influence upon our decisions regarding changes from accepted tradition." Gordis shows that Catholic Israel was never a monolithic body, and that it has ever been the task of the religious leader to legitimate, through accepted halakhic principles of interpretation, those changes appropriated by Catholic Israel which are ethically and socially desirable, and to urge new changes when necessary. Yet Gordis emphasizes that, despite the "stresses and conflicts" in the growth and change of halakhah, it "remains law, because we believe that it is binding and that its observance or violation entails consequences of good or evil."

Gordis's observations on the conservative democracy of Catholic Israel best refute the logic of Marshall Sklare's thesis that the Conservative temple is to be understood mainly as the "peculiar institution" of those second and third generation American Jews who wished to preserve their ethnic consciousness, and discovered the Jewish Theological Seminary by happy coincidence. Is the United States Constitution any less the work of

27. Cited in Waxman, *Op. cit.*, p. 94.

28. See Louis Ginzberg, "Zechariah Frankel," reprinted in part in Siegel with Gertel, pp. 2-9.

29. See Arthur A. Cohen, *The Natural and the Supernatural Jew* (N.Y.: Pantheon Books, 1962), pp. 209 ff.

30. Robert Gordis, "Tradition as Growth and Development," reprinted in Siegel with Gertel, pp. 50-77.

the Founding Fathers because the American people had been gradually evolving their own peculiar institutions and world-view before the document was ever drafted? It would seem that any conservative democracy is the fruit of a shared consciousness between the people and their ideologues.

One of the reasons for unrest within Conservative Judaism is that some of the movement's ideologues repudiate the idea of a conservative democracy and yearn to assert themselves through "organic change," as advocated by liberal, reform ideologies. Jacob B. Agus declared in 1948 that the principle of Catholic Israel, which "militates against any break with other sections of the Jewish people," is no longer relevant, since the "masses of our people have already broken away from the ancient moorings of Jewish Law," and the task is now "one . . . of erecting dams against the eroding floodwaters of destruction from the standards of the synagogues." Agus warned: "To wait for the agreement of the entire Jewish people would be tantamount in practice to the utter bankruptcy of our religious leadership. . . ." As a solution to the problem of religious observance, he urged that the Rabbinical Assembly enact *takkanot* ("decrees") which break with all precedent, if necessary.<sup>31</sup>

Needless to say, Agus's approach challenges the conservative concept of Catholic Israel which rests at the core of Conservative Judaism. He is, of course, justified in his concern that the people be guided by scholarly and responsive leadership, but, in the last analysis, the people's role can never be reduced to following a program worked out by ideologues. Those "laymen" who are committed to religious observance must affect Jewish law as powerfully as do their leaders. Otherwise, Conservative Judaism would become a roster of reforms dictated by the loudest ideologues, and the people would assume a passive role that Jewish tradition has ever found intolerable.

## V.

I have not spoken of politics, because in American life there is no such thing as "conservative" politics in the Burkean sense. The metaphysical and even the theological issues which would enter into such politics are simply not present. What is often confused with "conservative" politics is either the fanatical stance of the radical right, or the intolerance of right-wing Republicans, who urge that the more left-wing members of their party be censured. Neither of these positions is really conservative. In mainstream American politics, the epithets "left," "right," and "center" (or even "Democrat" and "Republican") hardly reflect radical differences, since United States politics operate in the hotbed of *conservative* democracy, fanned by liberal programs and their accompanying jargon.

31. Jacob B. Agus, "Laws as Standards—The Way of Takkanot," reprinted in Siegel with Gertel, pp. 28–45.



If the terms "left" and "right" reflect no vicious antagonisms within the mainstream of American democracy, then it should follow that this is true of American Conservative Judaism. Marshall Sklare and, more recently, Lawrence J. Kaplan (in *Commentary*, November, 1976) have delighted in exposing the "threat" of a possible split between the "leftists" and the "rightists" within Conservative Judaism. Such a split would be unthinkable to all who genuinely espouse Conservative Judaism. Schechter, as we have seen, was a staunch advocate of the variety and complexity precious to all conservatives. On September 10, 1901, he wrote to Dr. Cyrus Adler: "You know my conservative tendencies both in life and in thought, but I am thoroughly convinced that if the Seminary should become a real blessing, it must not be degraded into a battle-ground of the various parties."<sup>32</sup> Mordecai Kaplan was the first to make a fuss over alleged gaps between "Rightists," "Centrists," and "Leftists,"<sup>33</sup> yet Kaplan and those closest to him have already withdrawn from the movement with some bitter complaints.<sup>34</sup> Once the rank-and file of the movement's leadership come to grips with the name, "conservative," these divisions will seem inconsequential.

## VI

In a sensitive analysis of American Conservative Judaism, Jakob J. Petuchowski asserts that, ideologically, "American Conservative Judaism, rather than American Reform Judaism, is the heir of the German Rabbinical Conferences of the 1840s and of German Liberal Judaism as such." Like German Liberal Judaism (the precursor of Reform Judaism), American Conservative prayerbooks treat the sacrificial cult as an historical reminiscence and not as a future hope, and some American Conservative services include many English readings and organ accompaniment of prayers. Yet Petuchowski does admit that the "ethos as well as the ethnic composition of the two forms of Judaism are . . . widely different."<sup>35</sup> American Conservative Judaism may sometimes embrace the same forms evolved by German Liberal Judaism, but I must reiterate that the former has its roots in conservative thought, while the latter was conceived in the milieu of nineteenth-century liberalism, with its emphasis on meliorism (as opposed to sin), evolutionary change, and ideological reform of tradition.

Solomon Schechter observed, that

The large bulk of the real American people have, in matters of religion, retained their sobriety and loyal adherence to the Scriptures, as their Puri-

32. Cited in Bernard Mandelbaum, ed., *The Wisdom of Solomon Schechter* (N.Y.: Burning Bush Press, 1963), p. 120.

33. In "Unity and Diversity in the Conservative Movement," included in Waxman, *Op. cit.*

34. See, for example, Ira Eisenstein's observations in "Inherent Contradictions in Conservatism," *JUDAISM* (Summer, 1977).

35. Jakob J. Petuchowski, "Conservatism—Its Contribution to Judaism," *JUDAISM* (Summer, 1977).

tan forefathers did. America thus stands both for wideness of scope and for conservatism.<sup>36</sup>

Whether or not this judgment still holds is not the issue. Many have already begun to question the ineffective bureaucracies created by dominant liberal politics. In the political as well as in the religious spheres, Russell Kirk's strong proposal seems most attractive:

The thinking conservative, in truth, must take on some of the outward characteristics of the radical, today: he must poke about the roots of society, in the hope of restoring vigor to an old tree half strangled in the rank undergrowth of modern passions.<sup>37</sup>

Within the ranks of American Conservative Judaism, perceptive leaders have already been reconsidering Burkean premises. Seymour Siegel, one of the first Conservative ideologues to explore conservative thinking, went so far as to observe that the principles of conservative politics, as enumerated by Russell Kirk, are "but a restatement of classical Jewish teachers on men and society."<sup>38</sup>

If the critics of Conservative Judaism really want to take it to task without resorting to spurious and superficial charges of nondescript ideology and cowering self-criticism, they would do well to chide the movement for spurning the wells of conservative thinking which nurtured it and can continue to sustain it. If Orthodox critics are entitled to any complaint, it is that Schechter imposed alien, conservative doctrine upon the inner dynamic of the halakhah. But even this criticism would prove unfounded, given Schechter's emphasis upon careful historical study of the development of Jewish thought and practice, which was at the core of his conception of Conservative Judaism.

36. In *Seminary Addresses and Other Papers* (N.Y.: Burning Bush Press, 1959), p. 49.

37. *A Program For Conservatives*, p. 8.

38. Seymour Siegel, "Jewish Social Ethics—Liberal Or Conservative?" in *Idras* (Autumn, 1969).

# To Love The Torah More Than God\*

EMMANUEL LEVINAS

Translated by Helen A. Stephenson and Richard I. Sugarman  
With a Commentary by RICHARD I. SUGARMAN

## Introduction

Emmanuel Levinas, who was born in Lithuania in 1905, is one of the most distinguished philosophers of the contemporary generation. For many years he has been Professor at the University of Paris, where he currently teaches at the Sorbonne. Renowned for his work in the tradition of existential philosophy and phenomenology, he is the author of numerous books, including *Totality and Infinity*, an epoch-making contribution to philosophical thought. The essay, "To Love the Torah More Than God", draws the inspiration for its title from Midrashic and Talmudic sources.<sup>1</sup> It is excerpted and translated with the author's permission from the French text: *Difficile liberté: Essai sur le Judaïsme*, which we have rendered as *A Burdensome Freedom: An Essay on Judaism*.<sup>2</sup>

Though, in the United States, Levinas has suffered from comparative neglect as a philosopher of Judaism, he has long been regarded as a luminary in Europe, where he is widely thought of as the genuine successor to Franz Rosenzweig.<sup>3</sup> His search for a theological framework within which to address the Holocaust is born out of a searing personal experience as well as out of impassioned philosophical reflection. For six years he was held in a German prisoner of war camp, and it was during that time that he turned towards traditional Judaism. Since the end of the Second World War, Levinas has been an active force in Jewish religious life in France, and until recently he served as the director of the prestigious *Ecole Normale Israélite Orientale de l'Alliance Israélite Universelle*.

In "To Love the Torah More Than God" he asks how it is possible to

\* See footnote 2.

1. Cf. Jerusalem Talmud, *Hagigah*, 1:7; *Lamentations*, *Midrash Rabbah*, Introduction, Chapter 2. The original Hebrew here, the most probable source of Levinas' statement, is somewhat less polemical than the rendering given it by him. "*Hal'vai osee azavni v'es Torasee shamaru.*" An alternative rendering, somewhat closer to the text, reads: "So should it be that you would forsake Me, but would keep My Torah." Levinas' expansion and commentary are consistent with the governing intention of the Midrashic concept that a steadfastness to the Torah discloses an illuminating power that returns one to goodness and, therefore, to God.

2. Emmanuel Levinas, "*Difficile liberté: Essai sur le Judaïsme*", in *Présences du Judaïsme*, (Paris: Albin Michel, 1963).

3. The most important recent exception to this neglect is the appearance of an essay by Levinas, "Ideology and Idealism," translated by Arthur Lesley with the assistance of Sanford Ames, that appeared in *Modern Jewish Ethics*, edited by Marvin Fox (Columbus, Ohio: Ohio State University Press, 1975).

affirm the ethical vision of Torah Judaism in the face of all that has happened. Because of the extremely condensed nature of this most provocative reflection a commentary is appended to the translation.

*To Love The Torah More Than God*

Among the publications dedicated to Judaism in numerous Western countries, there are the great texts. There is much talent readily available in Europe. But, true texts are rare. The fading of Hebraic studies in the last 100 years has removed us from our sources. The wisdom which still issues forth is not based upon an intellectual tradition. It remains auto-didactic, even when it is not extemporaneous. To be read only by those less wise than oneself—what corruption for a writer! In the absence of criticism or dissent, authors confuse this “non-resistance” with freedom and this freedom with the trait of genius. Need one be astounded that readers do not credit this and see in Judaism, to which some millions of impenitents in the world are still bound, a mass of un-spiritual quibblings, holding neither interest nor importance?

We have just read a wonderful and true text, true as only fiction can be. Published anonymously in an Israeli journal and translated by Arnold Mandel, it appeared with the title “Yossel ben Yossel Rakover of Tarnopol Speaks to God” in the *Terre Retrouvée*, a Parisian Zionist periodical. It seems to have been read with emotion; it merits more. It testifies to a conceptual tenet that reflects more than intellectual readings, more than the concepts borrowed from Simone Weil, for example, who, as everyone in Paris knows, is the last word in religious terminology. This text conveys a Jewish science, delicately concealed, but quite secure, and translates an experience of profound and authentic spiritual life.

The text is presented as a document, written during the last hours of the Resistance of the Warsaw Ghetto. The narrator had been witness to all of its horrors; he lost his young children in those dreadful conditions. As the last survivor of his family, who is still alive for a while, he bequeathes us his final thoughts. Certainly it is literary fiction, but fiction where the life of each of us who has survived recognizes itself with dizzying clarity.

We are not going to recount all of it, even though the world has learned nothing and forgotten everything. We refuse to make an exhibition of the Passion of Passions or to extract any petty vanity as the author or producer of these inhuman cries. They echo and resound inextinguishably throughout eternities. Let us listen only to the thought which is articulated in them.

What is the significance of this suffering of the innocent? Does it not testify to a world without God, to an earth where man alone is the measure of good and evil? The simplest and most common reaction would be to choose atheism. It is the sanest reaction also for those to whom, thus far, a somewhat limited God distributed rewards, imposed penalties or par-

doned faults, and, in His goodness, treated men as eternal children. But with what circumscribed demon, with what strange magician, have you, then, populated your heaven, you, who today declare it a desert? And why, under an empty heaven, do you still seek a judicious and good world?

Yossel, the son of Yossel, tests the certainty of God with a new force, under a heaven that is void. For if Yossel exists so alone, it is to feel all the responsibilities of God on his shoulders. On the path to the one and only God, there is a stopping point without God. True monotheism must devote itself to answering the legitimate exigencies of atheism. An adult God manifests Himself precisely through the emptiness of a childish heaven. The moment when God withdraws from the world and veils His face (as with Yossel son of Yossel), "he has sacrificed men to their ferocious instincts," says our text, ". . . and since it is these instincts which dominate the world, it is natural that those who preserve the divine and the pure are the first victims of this domination."

A God who obscures His face, we believe, is neither an abstraction of theologians nor an image of the poets. It is the hour where the just individual finds no outside recourse, where no institution protects him, where the consolation of the divine presence in childish religious sentiment is also denied, where the individual can triumph only in his own conscience—that is—necessarily, in suffering. This is a specifically Jewish awareness of suffering that at no time values a mystic expiation of the sins of the world. The position of victims in a world in chaos, that is, a world where good does not triumph, is suffering. Suffering reveals a God who, in renouncing all beneficial manifestations, thus appeals to the full maturity of an entirely responsible man.

But, at once, this God who veils His face and abandons the just to their justice without triumph—this distant God—comes from within. There is an intense intimacy which coincides, for the conscience, with the pride of being Jewish, with being part of the Jewish people, concretely, historically, and yet incomprehensibly. "To be Jewish means . . . to swim eternally against the crass and criminal current of humanity . . . I am happy to be part of the people who are the most unfortunate of all the peoples on earth, the people for whom the Torah represents the most elevated and beautiful of laws and moral principles!" The intense intimacy of a virile God subdues itself in an extreme ordeal. By my belonging to the Jewish people who suffer, this distant God becomes "my God." "Now I know that you are really my God, because You would not know how to be the God of those whose acts are militantly the most horrible expression of an absence of God." The suffering of the just for a justice without triumph is lived as Judaism. Israel, historical and physical, becomes again the religious category.

God, veiling His face and being recognized as immanent and intimate—is that possible? Is it a question of a metaphysical construction, a paradoxical *salto mortale* in the style of Kierkegaard? We believe that here,

on the contrary, the particular physiognomy of Judaism manifests itself: the relationship between God and man is not a sentimental communion in the love of an incarnate God, but a relation between spirits, through the intermediary of a teaching, the Torah. It is precisely a discourse, *not* embodied in God, that assures us of a living God among us. Faith in a God who does not reveal Himself through any terrestrial authority can rest only on the inner evidence and the value of a teaching. This faith, to the honor of Judaism, contains nothing blind about it. Whence the phrase of Yossel ben Yossel—climax of the entire monologue—that echoes the Talmud—“I love Him, but I love His Torah even more . . . and even if I were disappointed by Him and downtrodden, I would nonetheless observe the precepts of the Torah.” Blasphemy? It is, at least, protection against the madness of a direct contact with the Sacred without the mediation of reason. But, above all, it is trust which does not rest on the triumph of a single institution, but is derived from interior evidence of the morality which the Torah conveys. It is a difficult road, already in spirit and in truth, with nothing more to foreshadow. Simone Weil, you have never understood anything of the Torah.

Our God is the God of vengeance, (says Yossel ben Yossel) and our Torah, is full of death sentences for venal sins. And, yet, it sufficed that if the Sanhedrin, the supreme Tribunal of our people, pronounced a verdict of capital punishment even once in 70 years, the judges would be considered murderers. Nonetheless, the God of the nations demands love for each creature made in His image and it is in His name that our blood has been spilled for two thousand years.

The true humanity of man and his virile gentleness enter the world with the severe words of an exacting God; the spiritual does not present itself as a tenable substance but, rather, through its absence; God is made real, not through incarnation, but, rather, through the Law; and His grandeur is not the inspiration of His sacred mystery. His grandeur does not provoke fear and trembling, but fills us with higher thoughts. To conceal His face in order to demand of man—superhumanly—everything; to have created a man capable of responding, capable of grappling with his God, in the role of creditor and not always as debtor—what truly divine grandeur! The creditor, after all, possesses faith above all, but it is also he who does not resign himself to the evasions of the debtor. Our monologue begins and ends by this refusal of resignation. Capable of trust in an absent God, man is also the adult measuring his own weakness: the heroic situation in which he maintains himself renders the world valid. It also puts the world in danger. Matured through a faith born of the Torah, man reproaches God for His unbounded grandeur and His excessive demands. . . . Man will love Him in spite of all that God may attempt in order to discourage man's love. But “do not strain the ark too much,” Yossel ben Yossel cries out. Religious life cannot be achieved in

this heroic situation. It is necessary that God unveil His face; it is necessary that justice and power be rejoined. There must be just institutions on this earth. But only the man who has recognized God obscured can demand this unveiling. In such a vigorous dialectic the equality is established between God and man, even in the midst of their disproportion.

Here we are as removed from the warm and quasi-tender communion with the Divine as from the desperate pride of the atheistic man. Here is a full and austere humanism, bound to a burdensome adoration—and, inversely, an adoration coinciding with the exaltation of man. A personal God, a unique God, does not reveal Himself like an image in a dark room. The text on which we have just commented shows how the ethical and the order of principles establish a personal relationship worthy of His name. To love the Torah more than God: it is precisely this which means access to a personal God against whom one may revolt—for whom one can die.

### Commentary

The eloquence of expression and the deceptive simplicity of his testimony should not be allowed to obscure the depth of Levinas' theological reflection. Levinas has argued that the way of life inscribed in the Torah is ethically self-validating. He has asserted boldly that this hour of recent Jewish history which rends that history in two has not disturbed, nor can it disturb, the deathless truth of the ethical teachings of the Torah.

It must be conceded that Levinas leaves open the question of what it means to contemplate the living presence of God in His apparent absence at the time of greatest need during the Holocaust. The Jewish concept of God, as providential Lord of history, responsible for the superintending of just outcomes, appears to evoke silence here as it does elsewhere in the literature of Holocaust theology. Levinas seeks in no way to cover over that time when night alone ruled the world and only the animal in man came through. What, then, has he truly accomplished by testifying to the reality of an absent God?

The theological framework proposed by Levinas is distinctive and important in its insistence that theology reconcile itself with the implacable demands that shape the ethical expectations of Judaism. The result is a radical reinterpretation of the meaning of *Deus Absconditus*, God who conceals Himself. For Levinas, the very refusal to conclude that absent justice entails the virtual non-existence of justice validates the continued existence of Israel as an ethical category with the promise of achieving a complete religious life. The horror of Auschwitz is visible only for beings who refuse to concede that, because the world is dominated by the ferocious instincts of men, the essence of humanity is so achieved by their regime. The greatest ordeal, the most terrifying aberration, is so recognized only by its departure from any conceivable standard of justice.

Dwelling in the absence of justice means seeking justice when it is



denied, refusing to yield up the wish that authentic humanity can be achieved. The moment of greatest peril consists in moral betrayal, when morality itself is denounced as an illusion—where the ferocities of instincts vie only with one another for hegemony. The Torah argues, for Levinas, against the most extreme expression of nihilism by refusing the invitation to devalue the suffering of the innocent.

This decisive metaphysical distinction between the phenomenon of absence and that of non-existence, so long obscured in the history of philosophy, is central to Levinas' analysis and needs to be made explicit. Absence is not that which is merely somewhere else, convertible into presence by a change of position, perspective, or interpretation. That which is absent is not necessarily an entity in another place, hidden from view, or unintelligible. Rather, the phenomenon of absence positively appears and informs our understanding of everyday events with considerable concrete significance. The disbelieving look of the innocent one in his agony horrifies us just because it expresses the absence of justice. We are able to recognize the suffering of the innocent only because the absence of justice has the power to inform us that what passes for truth, under the sway of institutional power, is not exhaustive of reality.

To recognize the absence of justice where justice is postponed or deformed, without succumbing, therefore, to a belief in its non-existence, is a necessary pre-condition grounding the possibility of ethical existence. The demand for justice depends upon our capacity for reckoning with the claims of the absent other, whether his distance is one of spatial separation or temporal proximity. The universal character of justice, in an analogous manner, then, depends upon the capacity to press the claims of all of the absent others.

For the very possibility of humanity, as Judaism conceives it, consists in catching sight of the absent dawn which exerts its claim even in the presence of interminable night. As Levinas says:

the true humanity of man and his virile gentleness enter the world with the severe words of an exacting God; the spiritual does not present itself as a tenable substance but, rather, through its *absence*; God is made real, not through incarnation, but, rather, through the Law; and His grandeur is not the inspiration of His sacred mystery. His grandeur does not provoke fear and trembling but fills us with higher thoughts (emphasis added).

Levinas has asserted that the existence of God, from an Hebraic perspective, engenders, rather than delimits, human responsibility for ethical action. There is no value in Judaism, as Levinas rightly says, attached to the mystic expiation of sins. The Torah expresses the life of concrete human reason as inseparable from the demand for justice, and thus serves as a fence around "the madness of a direct contact with the Sacred without mediation of reason."

How, though, is such a teaching to be understood when it does not become visible through any terrestrial authority, when suffering seems to confirm the abandonment of "the just to his justice without triumph?" Just as the visibility of a teacher or parent does not necessarily ensure the observance of a precept or the perfect imitation of an example, so, too, conversely, the absence of a teacher or parent does not necessarily invalidate the teaching nor annul its obligations. Profuse expressions of love for a parent by a child may be less gratifying than actions adhering to the teaching of the parent. How much more is this the case when the parent is absent or the truth of his teachings besieged. "So should it be that you would forsake Me, but would keep My Torah."

Levinas, then, maintains a position completely consistent with the ethical cornerstone of Torah Judaism, the central concession that Abraham wrests from his God, that the God of all the earth shall put His power in the service of His justice (*Gen.* 18). Violence when it rules even in such an unprecedented, murderous fashion points away from, rather than towards, the God who gives the Torah to Israel. Levinas proposes an ethical variation on the theological approach of *via negativa*: "Now I know that You are my God, because You would not know how to be the God of those whose acts are militantly the most horrible expression of an *absence* of God" (emphasis added). The God of history must remain transcendent to the world which He has created in order to provide for the promise of its redemption. Otherwise, the regime ruled by power would always administer ultimate truth and be the standard of the justice that it dispenses.

This refusal to reduce ethical expectation to political necessity is made possible by a God who is radically transcendent and wholly Other, who manifests His presence through a way that cannot be turned aside. The moral autonomy produced by the revelation to Israel necessitates, at the same time, the possibility of the most radical, even incomprehensible suffering. This is so just because the nation of Israel yokes itself to the reality of a God of freedom who, in His absence, permits the possibility of an immanent, living Judaism: "The suffering of the just for a justice without triumph is lived as Judaism."

What, then, of the God who bestows the gift of the Torah? Levinas protests that martyrdom vindicates only the ethical dimension of human existence. It is not sufficient to validate the authenticity of religious life. Religious existence requires that the heroic situation be transcended: "Our monologue begins and ends by this refusal of resignation. Capable of trust in an absent God, man is also the adult measuring his own weakness: the heroic situation in which he maintains himself renders the world valid." The ethical relation with the other depends upon man's ability to measure his own moral unworthiness, to experience shame in the presence of the other. It is by containing himself that man effects a just relation with the other and, thus, curbs his murderous spontaneity. It is

through the Law that a perfect relation with the other is enacted and, hence, the world is rendered valid.

This elevated ethical stance that exalts human possibility “also puts the world in danger” because such a vision of human life may be rejected. The annihilation of European Jewry expressed an absolute inversion of this ethical vision and, thus, proved its extreme vulnerability. For Judaism, theological reflection upon this terrible legacy demands that remembrance father interpretation. Such remembrance is not impervious to the legitimate complaints of atheism, when, in the moment posterior to revelation, each one must act as though the world depended upon him alone. Yet, interpretation is a child of the promise of the future, of anticipation that precedes redemption and is, therefore, “matured through a faith born of the Torah.”

When such faith is whole-hearted and refuses the invitation to live with the naive beat of the heart, man will love God in the face of creation whose redemption is compromised in its postponement. This is what Levinas means when he says that “man will love Him in spite of all that God may attempt in order to discourage man’s love.”

Levinas has suggested in a most compelling manner that the concept of justice embodied in the Torah wells up from an eternal source in the whirlpool of human history. He has further argued that the Torah alone remains our only prism through which to refract the light of creation. He has insisted that, for religious existence to be wholly credible, the eclipse of God can be reckoned as only temporary. For religious life to achieve its full expression it is necessary “that God unveil His face; it is necessary that justice and power be rejoined.”

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# *Education for Jewish Identity and Jewish Continuity in the Open Society*

ZALMEN SLESINGER

JEWES TODAY FACE A TWO-FOLD THREAT TO their security and continuity. Anti-Semitism—traditional, Communist and Arab varieties—endangers their physical, material and psychological well-being. The social-cultural climate of the open society—accelerating social communication, mobility, change, interdependence—subverts their sense of identity and their way of life. While anti-Semitism has its ups and downs and its intensity varies with the fluctuating conditions of the community, the menace of the open society to the spiritual survival of the Jew seems to persist and to become ever more critical with succeeding generations.

In theory, to be sure, the open society is in no way hostile to cultural minorities seeking creative survival in its midst. Dedicated to the principles of democracy, it carries no threat to any ethnic group pursuing its own way of life and perpetuating its own traditions. It is even supportive of ethnic diversity and welcomes cultural pluralism as a stimulus to its own expansion and development.

Moreover, in recent generations, the open society has been also, in fact, quite hospitable to the Jew. During the past century, the United States, for instance, has been a haven and host to millions of Jews escaping persecution and poverty. Witness the flourishing Jewish communities that presently dot the landscape of this country, and the amazing upward mobility of their population in business, the professions, academia, science, literature and art. American Jews today seem to be living in a society in which hardly any of their personal choices are determined by anti-Semitism. These conditions seem to point to a successful symbiotic relationship between Jews and the open society. In the face of these realities, what basis is there for labeling that open society a danger to Jewish continuity?

Indeed, the open society has been a bountiful blessing to the Jewish community. However, it has been a mixed blessing, bearing peril as well as promise to the future destiny of the Jews. A critical assessment of Jewish life in recent times strongly suggests that the personal freedom and

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security that Jews have enjoyed in the open society have by no means been entirely beneficial to their spiritual well-being and cultural continuity. The close relationship that has evolved over the years between the Jew and his neighbors has been, to a large extent, also responsible for the creeping erosion of Jewish life that is plaguing the Jewish community.

In other words, the social-cultural climate of the open society is ambivalent in its effects upon the fate and future of the Jew. It is supportive of the life of the Jew in a *personal* and *material* sense, but not in a *cultural* or *communal* one. It provides him with the incentives and opportunities for his *own* advancement, but tends to discourage the advancement of his *ethnic way of life*. It enables him to realize his identity and self-fulfillment as an *individual* but not as a *Jew*. In brief, the open society seems to be incompatible with, if not inimical to, the proliferation of a vibrant sense of Jewish identity and a vital Jewish group life within its environs.

Historically, Jews in the Diaspora were more or less effective in transmitting their way of life as long as they remained within their own spiritually self-enclosed and self-sufficient community. The more hermetically protected the Jewish enclave was against the infiltration of ideas inimical to its traditions, the less difficulties it experienced in transmitting its life patterns to succeeding generations and the less vulnerable it was to creeping acculturation and alienation. Its success in building Jewish identity and Jewish continuity in the past was not due to the educational effectiveness of any single institution—home, school or synagogue. It was primarily the result of the fact that, in former days, the cultural climate of the Jewish community was more or less *spiritually coherent and cohesive* and its educational impact upon the young was not only well-orchestrated but also *continuous and cumulative in its effect*.

However, with the dismantling of the barriers which isolated the Jew from the general community and dichotomized and compartmentalized his social perception of his own world and the world about him, the built-in safeguards of Jewish continuity likewise began to crumble and collapse. As Jews started to step outside of their culturally insulated and value-integrated communities, to expose themselves to other ethnic groups—particularly to culturally advanced groups—and to participate in their social-cultural affairs, the process of acculturation was correspondingly accelerated. Jews became, more and more, susceptible to modifications of their traditional life patterns, to ideological subversion, and to alienation and assimilation. The extent and quality of their acculturation, in any one country and at any one time, were determined by the intensity and intimacy of their communications and contacts with the outside social environment.

What we are witnessing now in the open society is, of course, but a recurrence of the experience of the Jew during his millennial odyssey in the Diaspora. Today, however, the effects of his interrelationships with the outside world are more complex, more critical, and more challenging. For

Jews in the open society enjoy full freedom of movement and most of them seem to feel at home and eager to take full advantage of all of the opportunities and options that are open to them. As a result, the Jew today is so heavily involved in the social-cultural affairs of the general community, so closely intertwined with its way of life, and so deeply affected by its pervasive spirit, that he tends to be more “mainstream conscious” than “ethnic conscious” and his lifestyle becomes increasingly indistinguishable from that of the non-Jew.

What makes the ambience of the open society particularly averse and antithetical to the proliferation of ethnicity or of Jewish group life in its midst are not merely its *universal* ideologies—freedom, equality, secularism, materialism, relativism, humanism—but also its *non-particularistic* way of life generated by the social-cultural dynamics—science, technology, communication, education, urbanization—of our age. These forces tend to create within the community a subliminal climate of commonality and conformity—common needs, problems, concerns, interests, expectation—which, in turn, act as catalysts in breaking down variations of lifestyle and patterns of cultural diversity, homogenizing ethnic perceptions and values, and weakening the very foundations of individuality and ethnicity.

The problem of creeping conformity is further compounded by:

1. The mere participation in the *common* daily activities of the open society—activities which far outweigh, in personal significance and relevance, the occasional *uncommon* ethnic activities—which produce a profound conforming effect on the mood and mentality of the ethnic member of the community.

2. The corporate structure of the mass media and the concentration of control of the channels of communication which tend to standardize our information, ideas, and images and bring into conformity our understanding of, and attitudes towards, events, people, institutions, values and lifestyles.

3. The all-pervasive mass phenomenon of contemporary life: mass production, mass distribution, mass consumption, mass communication, mass education, mass culture and mass psychology, which are detrimental to the preservation of ethnic consciousness, as well as to the development of individuality.

4. The Jew's continuous exposure to, and confrontation with, challenging alternatives to his ethnic way of perceiving, believing and behaving, which tend to make him self-conscious and insecure about his ethnic differences, and which undermine his confidence in the legitimacy of his heritage and its relevancy in the contemporary world. The state of uncertainty about the authenticity of his culture is the beginning of his alienation.

Thus, the conforming tendencies, inherent in the the dynamics of contemporary society, are crippling and corroding the conditions essen-



tial to the sustenance of creative ethnicity and force us, slowly but perceptibly, into a common mold and a uniform way of life. *Uniformity* rather than *diversity* is at a premium. Diversity is encouraged and promoted only when it is commercially profitable. Under these circumstances, it is extremely difficult to withstand the subtle pressures for imitation, for a mixing of lifestyles, for the merging of minds and for a marriage of creeds and cultures and to resist the allurements of the dominant culture and remain *distinct* and *un-meltable*. This climate of conformity tends to disorient our ethnic perspective and trigger ideological dissension, disaffection and alienation—psychological and sociological—particularly among our college youth, academicians and intellectuals.

The inroads that the open society is making on the mentality of the Jew is perhaps more clearly illustrated in the fluidity and pluralization of Jewish identity—a reflection of the diversity in response of the individual Jew to the challenges of the open society. The open society undermines the traditional concept of Jewish identity and renders it increasingly anachronistic and inappropriate for the modern Jew. In contemporary society, self-fulfillment seems to require a sense of group identity that is *eclectic* rather than *monolithic*; *dynamic* rather than *static*; *marginal* rather than *total*, and *self-selective* rather than *mandatory*. The posture of Jewish identity today seems to reflect this spirit.

Thus, Jewish identity is problematic, polymorphous, and means different things to different Jews. Its spectrum ranges from casual to ongoing creative identification with Jewish affairs; from a timid and tenuous sense of identity to one of ethnic pride and confidence; from a peripheral to a pivotal relationship; from total estrangement to total commitment; from the maximal and full-time to the minimal or part-time; and from a vague and ambivalent nostalgia to various forms of religious, cultural, social, political or philanthropic involvement.

Today, probably no more than 10 or 15 % of American Jewry approximate an identity with Judaism that is traditional and total. This lack of unanimity within the Jewish community as to what constitutes Jewishness or Jewish identity accounts for the sharp differences in our perception of contemporary Jewish life; in our understanding of the nature of the social-cultural dynamics of the contemporary Jewish scene; in our conception of the priority needs of the Jewish community; in our vision of Jewish education for our times; and in our point of view of the institutional and organizational structure that we must have to fulfill our needs.

The current structural and operational fragmentation of the American Jewish community is, of course, largely the result of this diversity in perception as to what the Jewish community requires to assure itself continuity and creativity within the open society. Thus, almost every major institution—be it religion, education, defense—tends to be pluralistic in orientation and duplicative in organization. Disunity dominates the direction of our communal programs and the distribution of our com-

munal services. Probably no significant program in the Jewish community enjoys the effectiveness and efficiency inherent in a unified and integrated approach to communal services. Except for anti-Semitism and Israel, there appears to be no single issue on which there is consensus. To be sure, a crisis—threatening our material or physical, rather than our spiritual and cultural, well-being—seems to unite us but, even then, only temporarily, for the duration of the crisis.

The present divisiveness and diversity within Jewish life is so overwhelming that we must seriously question whether we can at all afford the luxury of indulging in an *undisciplined* pluralism, if not a pluralism run amok, and still hope to maintain a healthy ideological climate within the Jewish community that will instill in our young a Jewish consciousness, strong enough to resist the ethnically debilitating influence of the open society and have an immunizing and inspirational effect on the Jewish personality formation of our children.

Pluralism in the open society is, of course, inevitable and even desirable. This is hardly true, however, for a cultural minority. For a minority group to sustain and retain its sense of identity and cultural unity within the open society, it must be committed to a basic value system, motivated by a common *Weltanschauung*, and suffused with a spirit of unanimity. A common past and common memories, in and of themselves, without a common way of life to share and transmit, are insufficient spiritual and emotional nourishment to inspire an enduring sense of identity and to assure it ethnic continuity. Nor will common danger and common crises alone hold a minority group together indefinitely. A cultural minority that is ideologically divisive is, obviously, too feeble to counteract the ethnically polluting effects generated by the open society.

To appreciate fully the magnitude and gravity of the threat of the open society to the continuity and creativity of Jewish group life, we need but ponder the following: probably 90% of world Jewry now resides in the 40 to 50 largest urban communities of our globe, and it is essentially in the heartland of these metropolitan cities where the social-cultural dynamics of the open society are generated; where the winds of change originate and blow most vigorously; where new ideas, new technology, new directions, new values, new lifestyles emerge and develop; where traditional patterns or lingering sentiments are at a disadvantage; where the effects of the “mass” feature of the open society are most pervasive; where Jews are deeply enmeshed, and disproportionately involved, in the operation of the levers that direct and control the conforming social-cultural forces of the open society.

The relentless erosion of Jewish identity and the Jewish way of life in the open society is by now obvious to all discerning Jews. Where differences arise is only when we consider means of combatting it. The challenge is clear and compelling. We can no longer continue to dismiss the social-cultural realities threatening the continuity of Jewish group life,

or to find comfort in underestimating their seriousness, or to ignore their dramatic implications for Jewish education, and let matters drift as they have heretofore. The years to come are fraught with danger, and the American Jewish community needs to be galvanized and rallied together in thinking, planning and coming to grips with the present situation. It is imperative that this paramount challenge be given priority consideration on the agenda of the Jewish community. Preoccupation with other communal issues can no longer be a justification for further delay in dealing with this threat to our creative survival.

We must combat the conditions undermining our ethnic existence just as vigorously as we are now fighting the forces threatening our physical well-being. However, unlike our battle against anti-Semitism, which is multi-faceted—political, economic, social and educational—and is waged against the enemy *outside* the Jewish community, the struggle that we must now wage against the erosion of Jewish identity and the deterioration of Jewish life is exclusively educational and *internal* in character. The enemy is ourselves. The threat to our existence and to our future is our reluctance to respond collectively and creatively to the ever-increasing winds of change. Moreover, our pace of change must be escalated so that it corresponds to the rate of change in the general community.

The spirit of unity, the creative strategy and the constant vigilance that guide us now in our battle against anti-Semitism, must likewise guide our battle against creeping alienation. We must learn to overcome our rigid resistance to inner change, and Jewish education must help us achieve it. For the major threat to the staying-power of Judaism stems from our lack of flexibility and adaptability to an environment of openness, freedom and rapid change. Coping creatively with the conditions menacing our survival in the open society implies continuous adjustments on our part.

But if Jewish education is to become a creative force in guiding and shaping the future destiny of the Jewish community, it must undergo a fundamental reconstruction. We need a new vision and a fresh design of Jewish education that is reflective of the spirit of our age and the demands of our time; that is responsive to the critical challenges confronting the Jew in the open society; that is receptive to disciplined change, and is concerned with the building and strengthening of Jewish identity within the open society. No piecemeal educational reforms will mend the erosion threatening the fabric of Jewish life.

Specifically, Jewish education must, first of all, focus its efforts on cultivating a growing and deepening consensus on Jewish identity so as to bring unity, direction, and purpose into the present cacophony of dissension within the cultural climate of the Jewish community. What should Jewishness in the open society represent in terms of commitments? There

must be an overall conception within the community as to the quintessence of Judaism for our times.

In the absence of such a consensus, Jewish identity can be, at best, only marginal, fluid and precarious and our educational enterprise in cultivating an enduring sense of Jewish identity becomes increasingly ineffective. Our chances for survival within the open society are, therefore, destined to diminish with each generation. Our present inability to define ourselves in behavioral terms acceptable to a majority of the Jewish community is, perhaps, the most basic challenge facing Jewish education in the open society.

This means that we need to initiate community-wide programs and public discussions designed to stimulate awareness of, and interest in, the urgency of evolving a meaningful and viable consensus on Jewish identity as our first line of defense of creative Jewish continuity in the open society. That consensus must obviously be responsive to the pluralistic and fluctuating conditions of the contemporary Jewish scene, reflective of the dynamics within and without the Jewish community and receptive to disciplined cultural change and social adaptation. We need a merger of the spirit of Judaism and humanism that synthesizes the wisdom of our heritage with that of our age; that does justice to both particularism and universalism and that would enable us to live in the open society without self-effacement, and without fear of decimating our way of life in the process.

Building a consensus on Jewish identity within the Jewish community will be no simple task. For while there is widespread recognition of the urgency for strengthening and deepening that sense of Jewish identity, there are sharp differences of opinion as to its content. However, there are promises on the horizon. The embryonic elements of such a consensus are the widespread commitments to the idea of Jewish peoplehood and common destiny, to the State of Israel, to better community relations, and to the general welfare of the Jewish community. Why not use these as a foundation on which to build?

Secondly, for Jewish education to become instrumental in reversing the rising threat of alienation and arresting the erosion of Jewish identity and the quality of Jewish life, it must be basically reoriented, and its focus shifted from the *past* to the *present*. Current Jewish educational premises, policies, and programs, which are largely past-focused, seem to be inappropriate and ineffective in achieving our goals. Therefore, instead of dwelling on the sociology of the Jew in the past, education must turn its attention to the sociology of the Jew in the present. During their limited Jewish school span, our children need to learn to cope with the problems of the contemporary Jewish scene, and it would seem far more desirable, therefore, to have them pursue a program that will help them understand the world that they live in now.

Jewish education, particularly for high school-adult groups, must be

largely contemporized in spirit and emphasis and concern itself with the entire spectrum of issues confronting the Jewish community. Specifically, it should deal with:

1. The culturally homogenizing effects of the climate of the open society on the development of Jewish individuality and Jewish identity and the available options for coping with them.
2. The implications of “living in two civilizations,” in terms of individual lifestyle, community climate and Jewish education.
3. The tensions, the conflicts, the challenges confronting the Jew growing up in Jewish communities that are pluralistic within and open without.

These problems areas, the daily developments within the Jewish social scene in the United States and in the State of Israel, along with those aspects of the Jewish heritage that are relevant and meaningful to the contemporary Jew, should constitute the curriculum and the point of departure of Jewish education.

Thirdly, to equip the maturing Jew with the tools that he needs in order to cope with the emerging problems generated by the complex, changing and challenging social-cultural surroundings, it is imperative that Jewish education become the top priority of the Jewish community, and that it cease to be limited largely to one age level, but be coterminous with the life of the individual Jew. In a world of the acceleration of knowledge and of continuous change, education must be an ongoing process. It must also be regarded as essential in order to counteract over-exposure to the ethnically homogenizing influences of the open society and its corrosive effects on Jewish identity. Accordingly, we must expand our education programs, extend our educational facilities and enlarge our allocations, so as to provide *universal and free educational opportunities*—formal and informal, cognitive and affective, experimental and academic—that will reach out to all age groups from the kindergarten to senior citizens and be so geared as to satisfy all of the unique abilities, interests, and needs of the Jew—individually and collectively. The entire community must be turned into a learning environment in which all of its population have access to continuing Jewish educational opportunities.

Fourthly, to facilitate and fortify the cultivation of Jewish identity in the open society it is also indispensable that all the diverse educating agencies within the Jewish community—the home, the school, the synagogue, the Jewish center, the camp, the mass media—be governed by common purposes and move, more or less, along common directions, so that their very impact upon the young be *consistent* and *continuous*. Jewish learning, we must remember, does not go on in the classroom alone; it also takes place at home, in the playground with peers or at a community center.

Coordination and periodic assessment of respective purposes and roles are essential. The educational process is holistic rather than atomis-

tic, and it is the entire institutional complex of the community, and not a single institution, that is decisive in its impact on the personality formation of the child. To improve Jewish education, we must not only change the school program, we must also change the total climate of the Jewish community. Without a community that is culturally cohesive, it is impossible to cultivate an abiding sense of Jewish identity that is meaningful and relevant.

Furthermore, the school alone cannot build commitments or cultivate values unless these are already being nourished at home or in the community. Every institution must discharge its role in cooperation with the others.

In the process of developing a community climate that is culturally cohesive, we shall, of course, have to redefine the respective educational roles of our institutions and orchestrate their functions so that their educational impact upon the young be integrative and synergetic in effect, and thereby maximize the educational effects upon the maturing minds.

Fifthly, to promote Jewish identity and assure Jewish continuity within the open society, Jewish education must be planned and guided, if not discharged, *centrally* rather than *locally*. The task of Jewish education is too serious a matter and too critical an issue for the future well-being of the community to be left to the vision and the resources of local communities. It must be *centrally* planned, *centrally* sponsored, *centrally* funded, *centrally* administered, and *centrally* oriented. The entire community must assume responsibility for the Jewish education of all children and the schools, in turn, must be accountable to the entire community and responsive to its needs, concerns, interests, and general well-being. Our reasons for perceiving our educational task as the concern and the responsibility of the *total* rather than the *local* community are the following:

A. The effects of good Jewish education or the lack of it are widespread, transcending personal, parochial, regional, denominational and geographic considerations.

B. The equalization of educational opportunities—adequate funding, sound educational programs, competent teachers, creative instructional materials—require the equalization of Jewish educational resources which can be realized only through national standards and national funding.

C. The basic problems confronting the operation of our educational enterprise—be they philosophical, curricular, pedagogic, personnel, administrative or financial—are problems which plague every local Jewish community. It would seem far more logical and efficient, therefore, to approach these problems nationally and in the context of the open society rather than in their local settings and local dimensions.

D. The magnitude and the complexity of the task of building a program of Jewish education designed to stimulate and strengthen Jewish

identity and Jewish continuity in the open society are so overwhelming that no single local community has the required resources, the competency, and the courage to cope with it. It demands joint planning, the cooperation and the skill and funds of the total Jewish community. Only within a nation-wide frame of reference can we hope to evolve a realistic philosophy, program and organization appropriate for the needs of our age.

The establishment of a community-wide system of Jewish education would, of course, require the organization of a representative national Board of Jewish education which would have the responsibility of implementing this massive undertaking.

Finally, to facilitate the directions and the implementation of the above measures, it is essential that the Jewish community establish an Institute on the Dynamics of Jewish Identity in the Open Society, whose functions shall be to study the inter-relationships of Jews and non-Jews and their effects on Jewish identity and Jewish continuity, with a view to

- determining the problems, the tensions and the challenges that they generate;
- clarifying the critical and complex issues facing the Jew in the open society;
- indicating the measures needed and the options available for coping with them;
- assessing the effectiveness of the educational programs that are intended to strengthen Jewish identity and to safeguard Jewish continuity;
- detecting dramatic changes or new trends in the ethnic pulse of the Jew and the quality of Jewish communal life;
- gauging the rhythm of Jewish consciousness and Jewish commitment;
- discerning any institutional lags within specific communities that need accelerated reform; and
- providing, at regular intervals, authoritative analysis and assessment of the fluctuating Jewish conditions in the open society; the state of the Jewish community, and recommendations, if any, for strengthening it.

To the extent that we shall be successful in the cultivation of a sense of Jewish identity; the contemporization of education and the creation of a cultural climate within the Jewish community that is coherent, cohesive and consistent; the development of a comprehensive and orchestrated program of education for all age groups; the centralization of our educational enterprise and the establishment of an Institute on the Dynamics of Jewish Identity—to that degree will our educational enterprise become a creative force in the life of Jews in the open society.

What we have proposed are, obviously, but broad guidelines for the reorientation of current educational policy and not detailed blue prints of programs for the classroom or the specific local community. What is needed now is to spell out their implications in terms of the curriculum, organization resources and procedure. This, however, can be best per-



formed by the professionals and the lay leadership, following their general approval of the reorientation indicated.

In submitting these proposals, we are by no means certain that their implementation will alleviate or arrest the erosion of Jewish identity and the quality of Jewish life. What we are certain of, however, is that we can no longer continue to drift and pursue our present course without destroying all hopes for creative survival. It is, therefore, critical that we consider alternative educational approaches and programs that are aimed at coping with the growing threat of the open society.

Needless to point out, the mere consideration of these measures will provoke strong oppositions and encounter many difficulties. Yet we firmly believe that these obstacles should not discourage us from considering these proposals. In view of the complexity of these measures, no quick solutions are to be expected. It will require considerable time, determination and patience to set this educational project in motion and to bring it, hopefully, to fruition. Furthermore, it would require creative leadership, careful planning, and close cooperation on the part of the total adult Jewish community to achieve these ends.

# ALL THE NEWS THAT'S FIT TO PRINT ABOUT JEWS ISN'T IN THE NEW YORK TIMES (OR THE WASHINGTON POST OR ON CBS)

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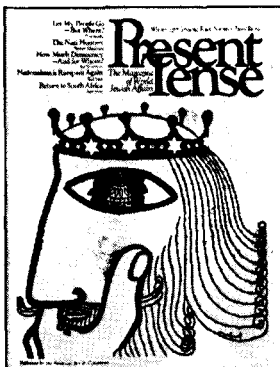
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**On renewed interest in Judaica among young Americans:** "The young people perceived themselves as survivors of the failures of Jewish education and the false values of America." Sylvia Rothchild.

**On Israel's Nature Reserves:** "It may be that General Yoffe's animals will somehow lead the people of the Middle East to peace one day. But the tanks were in the mountains, waiting. The real beast in the desert was still man." Robert Spero.



**On being a Jewish poet:** "The truest Jewish poetry will be written out of the inward preoccupations of people who happen to be Jews." M. L. Rosenthal.

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**On Israel's Arab intellectuals:** "I am an Israeli but I cannot be a Jew." Naomi Shepherd.

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# PRESENT TENSE

The Magazine of World Jewish Affairs

# *German Jewry Was Different*

Review-Essay by ALFRED JOSPE

*Freud, Jews and Other Germans: Masters and Victims in Modernist Culture.* By PETER GAY. Oxford University Press. 289 pp. \$12.95.

PETER GAY'S LATEST VOLUME RE-ENFORCES one's sensitivity to a striking fact: the history and fate of German Jewry have stimulated the growth of a literature that differs markedly from that on Israel and Eastern Europe. For thirty years now, there has been a steady flow, sometimes amounting to a deluge, of books on and from Israel—from the self-appraisals of Weizmann and Ben-Gurion to those of Dayan and Golda Meir, from Abba Eban's *argumentum pro vita sua* to, among others, those of Walter Laqueur, Amos Oz, Avraham Yehoshua, Howard Sachar, Hillel Halkin, as well as Saul Bellow's report on his trip *To Jerusalem and Back*, reporting, questioning, defining, interpreting—verbalizing the agonies and hopes, the seemingly irreconcilable conflicts and the creative tensions, the deadly dilemmas and the search for life-affirming options which constitute Israel's reality. Israel is holding our hopes and fears in bondage.

The world of Eastern Europe, too, had, and still has, its great and gifted literary spokesmen who have become the loving memorializers of that world—Agnon and Heschel, Maurice Samuel and Lucy Dawidowicz, Chaim Grade, Jacob Schatzky and others, evoking the misery and grandeur, the rebelliousness and the radiance, the physical hunger and the spiritual sustenance of a great civilization that was turned into ashes in the furnaces of the Holocaust.

The memory of German Jewry has generated a different kind of literature. Here, we have an immense and still steadily growing number of often superb scholarly studies covering every facet of the Jewish experience in Germany, especially since the Emancipation. One reason for this focus is historical. The intellectual history of the Jews in the nineteenth century was essentially about those in the German-speaking *Kulturkreis*. It was here that Jewish life and thought were first exposed to the full impact of the intellectual, social and political forces of modernity and their challenge to the religious foundations and social structure of the Jewish community. There is an understandable desire on the part of scholars, as well as of the remnants of German Jewry, to establish a permanent record of this explosively creative period of Jewish history, to examine its failures, and to assess its contributions to the whole of Jewish life. The

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publications of the Leo Baeck Institute fulfill this function admirably.

But a second reason may well be, as the author of this work puts it, that these books are primarily “explorations in a region of our recent past of which we know much, and which is documented to an almost bewildering degree, but which we have mastered neither intellectually nor emotionally” (p. ix). Germany and the German-Jewish experience continue to generate efforts to comprehend what remains incomprehensible and to explain, if an explanation is possible, how and why what did happen could have happened.

Peter Gay, distinguished scholar in the intellectual and cultural history of the Emancipation and award-winning author of works on the Enlightenment and the Weimar culture, makes a remarkably lucid and provocative contribution to this quest in his new volume which brings together six previously published essays on a wide range of topics—on Freud, Brahms and the Jewish conductor Hermann Levi, on the encounter of German Jews with modernism in the Wilhelminian culture and on the nature of what has been called the Berlin Jewish spirit. Despite their thematic diversity, the essays are held together by the way in which they reflect two of the author’s central interests—German culture and the modernist movement—two phenomena which, as he argues, are united in a kind of tragic complementation in the German Jew who saw himself as a German but was not accepted as such, while, at the same time, serving as a “symbol, to himself, his admirers and detractors alike, for the profound, often traumatic changes that made Western culture what it is today” (p. vii).

The scope of knowledge with which Gay pursues his theme, his gift for formulation, and the sparkling grace of his style are impressive. He is particularly effective in exploding myths, demolishing stereotypes, and challenging widely-held presuppositions, not always stating new positions but always giving new and illuminating data. About Germany: There is not just one Germany; there always were several Germanies. The Germans were neither all villains nor all fools. There were many with decent and democratic impulses. Some Germans did not need forgiveness. The crimes of others can never be forgiven. About the alleged “unpolitical” German and the German burgher’s alleged diffidence about involvement in public life as unworthy of a truly educated human being: Notwithstanding the title of Thomas Mann’s *Betrachtungen eines Unpolitischen*, was this true? And, if so, was it a major factor favoring acquiescence to Nazism? Germans were, in fact, strenuously political throughout the 19th century. On German anti-Semitism: It was a cluster of behaviors (as has, of course, been pointed out by others before), and the sources of this infection varied as much as did the diagnoses and the prescriptions for its cure. For some, including the historian Treitschke, anti-Semitism was a response born out of frustration at the refusal of the Jews to give up their identity, while others rejected the Jews because of their strenuous efforts to aban-

don that identity. For the liberal politician Eduard Lasker it was an epidemic that would be overcome by "better sanitation," while Gay sees anti-Semitism partly as a protest against modernity—the Jew is viewed as personifying what is felt to be its evils: urbanization and its depersonalization, materialism, social rebelliousness, cultural nihilism.

Consequently, the widely supported thesis that German Jews were identified with modernism and were its chief exponents also stands in need of revision. Among the charges levelled most frequently against them in the nineteenth and early twentieth centuries was that they were rootless and cleverly manipulative, and that they were undermining the traditional cultures of the societies in which they lived, thus paving the way for a decadent modernism deeply repugnant to the traditional German outlook upon life. But, as Gay points out (and demonstrates throughout the book), there was much about Jewish Germans that was not modern, just as there was much that was modern and was not Jewish. Nor were Jews as numerous and preponderant in the avant garde as has frequently been claimed. Their role as the disruptive "stranger" (to draw on the title of Georg Simmel's famous essay) was vastly overstated.

The nature of modernism is the first of several major themes that intersect in Gay's book. To see it merely as a repudiation of the normative forces of the past is a gross oversimplification, for the modernist, paradoxically, hated the modern world—he was anti-rational, rejected accepted pieties, and rebelled against "the role of the machine, the vulgarity of the bourgeois society, the pretensions of parvenues, the waning of community, the disenchantment of our culture with culture itself" (p. 22). But, as Gay points out, modernists also frequently were life-affirming, upheld the family and society, and retained a profound allegiance to bourgeois life patterns. While being intellectual revolutionaries or aestheticist rebels, they could, at the same time, be social conservatives who affirmed the conventions and moral values of the bourgeoisie from which they had sprung and in which their roots remained anchored.

This two-sidedness of modernism is worked out with particular sharpness in Gay's masterfully written and argued opening chapter on Sigmund Freud, the "Columbus of the mind." He draws a fascinating picture of Freud's home and office, of his partiality to the prehistoric and his profound interest in archaeology, of his unparalleled intellectual audacity and his driving desire to solve what he liked to call "the riddles of life." And, by pointing out the strong influence on Freud of German culture in general, as well as of the international positivist tradition, he also demolishes the myth that psycho-analysis was somehow the product of a particularly Viennese spirit. Gay's major point, however, is the amazing contrast between the radicalism of Freud's ideas and the conservatism of his social posture. In Gay's words, Freud was

*an irreproachable bourgeois who fashioned for himself an unmistakable*

bourgeois environment but who, at the same time, developed theories about human nature and human conduct as subversive as any set of ideas in history . . . He did all the things a good bourgeois is supposed to do. He worked hard, worried about money, loved his wife, fathered six children, played cards, attended lodge meetings, fixed a name plate, Prof. Dr. Freud, to his door, and went on vacations. (pp. 60 and 61–62).

Yet this bourgeois was a true revolutionary who dared to mention the unmentionable, offended the conventions and sensibilities of his age, refused to ignore what everyone else avoided, reached into the darkest recesses of human nature to uncover the hidden—yet was as appalled as were his contemporaries by his findings about infant sexuality and the sexual roots of neurosis. Hence our understanding of modernism requires substantial revision. Frequently defined as a celebration of unreason, as a rejection in anger, disgust or despair of the complacency and shallowness that are said to be the mark of the bourgeois society, modernism is not as dogmatically anti-rational as we are frequently asked to believe. Freud showed that it can have important rational components, and that “it was not only possible but necessary to be rational about irrationality”—his “most modern and most revolutionary act.”

One caveat should be registered here. In this sixty-three page essay, just two brief paragraphs on Viennese anti-Semitism deal with the question of Freud's Jewishness. Gay mentions the details commonly considered most important—the hostility and resistance he encountered as a Jew; his refusal to deny or scuttle his Jewishness; his rejection of religion as an illusion akin to neurosis; his affirmation of his membership in the Jewish group. But this account seems strangely incomplete and does not touch on the possible effect of his ambivalent social and cultural location on his thinking and writing, the possible unresolved tension between his own rationality and the irrationalities in his own soul, the significance of his frequent use of the language and imagery of the Bible, his occasional self-identification with Biblical figures, his theory that hatred for Judaism is, at bottom, hatred for Christianity, and his strangely revealing statement which appears in the preface to the Hebrew edition of *Totem and Taboo*, seeking to define his relationship to Judaism and the Jewish people:

No reader of this book will find it easy to put himself into the emotional position of the author who is ignorant of the language of Holy Writ, who is completely estranged from the religion of his fathers—as well as from every other religion—and who cannot take a share in nationalist ideals, but who has never repudiated his people, who feels that he is in his essential nature a Jew and who has no desire to alter that nature. If the question were put to him: “Since you have abandoned all these common characteristics of your countrymen, what is there left to you that is Jewish?” He would reply: “a very great deal, and probably its very essence.” He could not now express that

essence clearly in words but some day, no doubt, it will become accessible to the scientific mind.<sup>1</sup>

He could not define the nature of this relationship in terms intellectually satisfying to him, but the “essence” of which he speaks would appear to have been more than a sense of group belongingness in the face of rejection and hostility. An assessment of the ambivalences in Freud’s Jewishness by a thinker of Gay’s analytical gift, and his specific agreement, or disagreement, with the studies of Freud’s Jewishness by Ernst Simon and Marthe Robert<sup>2</sup> might have been instructive.

Freud’s life and experience illumine, however, not merely the problem of modernity but, also, the predicaments of the Jew in Germany. Culturally a member of the German *Kulturkreis* rather than a Viennese, and feeling rejected by Germany, Freud chose in 1926 to call himself a Jew rather than a German. The Jewish experience in Germany, primarily in the Wilhelminian era, is the second major theme that binds Gay’s essays together.

There was hardly a generation of Jews in Germany after the Emancipation which did not have reason to question whether a German-Jewish symbiosis could ever be achieved and whether the dream—and occasional promise—of complete acceptance and equality would ever become reality. To be sure, the balance sheet often looked quite promising. By about 1850, within two generations after Moses Mendelssohn, a substantial segment of German Jewry had moved into the stratum of the German middle class. They were above average in education and wealth. The process continued in the Wilhelminian era when, as Gay points out, Jews became visible on the cultural scene in often striking numbers: as drama and art critics, as journalists, authors, editors and publishers. Their share, hence their visibility, in the public professions—medicine, dentistry, law—and in the garment industry was especially high. Albert Ballin was the driving spirit behind the growth of the German merchant marine, Emil Rathenau a pioneer in the electrical industry. And, of course, there were Jews in public life, especially after World War I—Walter Rathenau, in charge of the reconstruction of the German economy; Eduard Lasker, co-founder of the National-Liberal Party; Hugo Preuss, a member of the German cabinet, who drafted the constitution for the Weimar Republic.

Yet the symbiosis, though ardently desired by Germany’s Jews, never succeeded. Even in the best years of the Weimar Republic, probably the

1. Quoted by Ernst Simon, “Sigmund Freud, the Jew,” *Yearbook of the Leo Baeck Institute* II, (London: 1957), p. 290. Gay mentions that he is acquainted with Simon’s study (p. 77n). The statement by Freud was originally written in German, in a letter dated December, 1930. It was translated and used as the introduction to the Hebrew edition which appeared in Jerusalem, 1938–1939.

2. Marthe Robert, *From Oedipus to Moses: Freud’s Jewish Identity*, transl. Ralph Mannheim, (Garden City, N.Y.: 1976).



best years of the German-Jewish experience as a whole, the Jew did not cease to be an obsessive problem for many Germans. Regardless of his contributions to literature, music and art, his scientific achievements, his role in Germany's economic development, the Jew was rejected. He was an outsider, the unwelcome stranger, the adversary who promoted the modernist decay that threatened the cultural and social equilibrium. It did not matter, Gay argues forcefully, that there was no peculiarly Jewish element in modernism, as some observers thought to have detected; that the charge of presumed Jewish proclivity for experimentation in the arts and innovation in literature was largely a myth; and that, while "there were German Jews in the avant garde of high culture, they were in the rear garde and center as well." Nor did it matter that Jews, from the man in the street to the Jewish thinker, defined themselves as being Jewish by religion alone and as Germans in every other respect. It was precisely this self-definition which Germans found indigestible. The Jew was an unassimilable element that neither could, nor should, be absorbed.

This rejection permeated Germany's cultural, social and political structures. Politicians, writers, intellectuals—inside the universities and outside—refused to accept the Jew as co-citizen. Neither his patriotism nor his education, nor the way he wrote or spoke German and publicly declared his German loyalty and commitment qualified him for acceptance. Government officials, the civil service and, especially, the army refused either to accept Jews into their ranks or to promote them, though there were notable exceptions; and they considered this not a breach of the constitutional rights of the Jews but a justified and justifiable denial of public rights, because the Jews refused to keep their part of the contract—and their part was to stop being Jews, however little their Jewish identity might mean to them.

Gay documents his analysis with quotations that strikingly illustrate the irrationality of the rationalizations of this rejection. A letter by Theodor Fontane (1819–1898), novelist, critic and poet, to the pedagogue and philosopher, Friedrich Paulsen, illustrates the tone and level of the arguments that were used:

Down to 1848 or perhaps 1870, we were dominated by the ideas of the previous century; we had quite sincerely fallen in love with human rights and revelled in ideas of emancipation, which we had not yet had time and opportunity to test. This "testing" is of recent date and has turned out most unfavorably for the Jews. They are irritants everywhere. . . . they mess up everything, obstruct the contemplation of every problem for its own sake. Even the most optimistic had to convince themselves that baptismal water is not enough. Despite all its gifts, it is a horrible people—a people afflicted from its very origin with a kind of conceited vulgarity which the Aryan world cannot get along with (p. 112).

If Fontane found Jewish conduct offensive and unacceptable to

Aryan sensibilities, different rationales were sought and found by others. Heinrich von Treitschke, a leading historian around the turn of the century, felt that the alien, oriental religion of the Jew reduced his capacity to become German and, therefore, advised the Jew to behave in a "less Jewish way"—a prescription topped by Gerhard Kittel (not mentioned by Gay), the son of a distinguished Biblical scholar and himself a specialist in New Testament research, who, in 1933, sent Martin Buber a copy of his just published treatise, *The Jewish Question*, in which he advocated the legal imposition of an alien status on Jews, with the argument that this would "give a Christian meaning to the [Nazi] struggle against Judaism," while the Jews, on their part, should accept this willingly as "God's just dispensation."<sup>3</sup>

The rationales may have differed; the aims were identical. To be sure, not all Germans felt or spoke that way. There were other voices. But this was the dominant public tone, and it was rarely contradicted or publicly challenged by non-Jews.

Germany's Jews responded to their condition in a multiplicity of ways—the third major theme emerging from Gay's analysis. Fundamental to their responses was the fact that German Jews "thought, felt and acted like Germans." However, Gay makes it quite clear that their stance was usually not "an effort at disguise, a craven self-denial," but a feeling of at-homeness in a "civilization that had produced cosmopolitans like Schiller and Kant, ornaments to modern humanism like Goethe." Hence, some Jews responded to being affronted less as Jews than as Germans—they felt the "Jewish question" was primarily a German question which had to be solved by Jews and gentiles together. Others responded differently: they intermarried or repudiated their Jewishness directly, quite often in the hope that they, themselves, or at least their children would thus gain entry into the coveted stratum of German society. (Gay points out that the exodus through conversion, though substantial, was not massive—a total of about 22,000 in the 19th century.) Nor was mimicry an assurance of success, as is shown, for instance, by the pathetic case of Georg Simmel, well-known philosopher and sociologist, who, born a Protestant to previously converted parents, was attacked and rejected for being a Jew and became a victim of academic discrimination. Interestingly enough, his writings reflect a good deal of preoccupation with the theme of "the stranger," the marginal, alienated man who is both at home and ill at ease in his community.

Others, personally untouched by prejudice and hostility or impervious to their bite, were able to ignore their existence, as did, for example, Aby Warburg, gifted art historian and creator of the famous Warburg Library, the son of a pious Jewish banker in Hamburg who, though he

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3. Cf. F.E. Talmadge, *Disputation and Dialogue*, (New York: 1975), pp. 49f. and Max Weinreich, *Hitler's Professors*, (New York: 1946), p. 41.

moved away completely from the Jewish world of his family in order to study antiquity and its survival in the Renaissance, yet saw the Jew as partner in the battle for *Bildung*, reason, enlightenment.

Still others retained their identification with the Jewish world but, at the same time, had a passionate love affair with German culture and proclaimed the legitimacy of the co-existence of the two worlds, or even envisaged the possibility of their fusion. Outstanding examples of this stance were Else Lasker-Schueler, renowned poetess, who showed a passionate identification with both her Jewish origins and the German culture in which she grew up and, while considering herself a German writer, also felt that she was somehow animated by a primordial Hebraic vision which she expressed in the language of the Bible;<sup>4</sup> and the philosopher, Hermann Cohen, the founder of the Neo-Kantian school of thought and one of the few Jews who broke through the barriers of academic discrimination. He saw a profound affinity between Germanism and Judaism,<sup>5</sup> felt that the ethos of the German state was in complete harmony with that of Judaism, and sought to establish the Jewish claim to full citizenship in the modern state by attempting to demonstrate that the eternal verities of Judaism and the philosophical truths as defined by Kant and German humanism were not merely compatible but identical.<sup>6</sup>

The poetess' strongly emotional and the philosopher's intellectualized and idealized responses were, of course, highly individualistic and not paradigmatic of more wide-spread responses to the German refusal to accept a collective Jewish presence. Far more frequent were the pathological responses that reflect the self-questioning and self-doubts of the rejected, the self-torture and even the self-rejection among German Jews who felt with every fiber of their being that they were Germans yet were unable, as a group and often even as individuals, to break through the barriers erected against their acceptance.

Jakob Wassermann expressed the torture of this tension not only in several novels but, especially, in his famous short autobiography, *Mein Weg als Deutscher und Jude* (1921, quoted at length by Gay):

Sacrifice is not enough. Wooing is misinterpreted. Mediation meets coldness, if not scorn. Apostasy is, for the self-respecting, out of question on principle. Secret assimilation bears fruit only for those who are suited for

4. Gay feels that the Jewish component in her writings is mainly thematic, located in the choice of subject matter. But there may well have been a special relationship to the Bible and what Robert Alter calls "a special realignment of her identities," generated by the ever-present tensions between her German and Jewish identities. Cf. Robert Alter, "Modernism, the Germans & the Jews," *Commentary*, (March 1978): 66-67.

5. Gay translates Cohen's terms *Deutschtum* and *Judentum* as "Germanness" and "Jewishness." While the alliteration is appealing, *Judentum* must be rendered here as "Judaism." Jewishness, with its ethnic and possibly secular-cultural connotations, is exactly the opposite of what Cohen means.

6. Cf. *Reason and Hope: Selections from the Jewish Writings of Hermann Cohen*, transl., ed. and with an introduction by Eva Jospe, (New York: 1971), pp. 18 and 175 f.

assimilation, which is to say, the weakest individuals. Persisting in old ways means torpor. What remains? Self-destruction? A life in twilight, anxiety and misery. . . . It is better not to think about it (p. 150).

He did, of course, think about it, without finding a way of either separating or harmonizing the two dimensions of his identity. Others thought that they could find a way by adopting, consciously or sub-consciously, the stereotypes and arguments of the aggressor. They tried to "prove" their loyalty and patriotism by pointing out the number of German Jews who had given their lives in World War I and other wars. Some cringed at what they considered "Jewish" conduct or the display of Jewishness in public places, and counselled restraint and less visibility. Some manifested an "embarrassed derision" toward the rapidly increasing number of *Ostjuden*, refugees from pogroms and poverty (who, in 1925, constituted 25.4% of the Jewish population of Berlin), trying to show that German Jews were different; and there even was a temptation to accept a role-definition as second-class citizens, as when, for instance, no less a person than Ludwig Hollaender, a spokesman and director of the *Centralverein*, in a discussion of the position of the German Jews, is reported to have said: "*Stiefkinder müssen artig sein*"—step-children must be well-behaved.

The most disturbing and destructive pathological response to the German-Jewish dilemma was, however, Jewish self-hatred, defined by Gay as "the frantic urge to escape the burdens of one's Jewishness not merely by renouncing but by denouncing Judaism." The figure whom he discusses at length as a paradigm of self-hatred among Jews is Hermann Levi, a Jew who was among the most accomplished conductors in the German imperial era. His formative and decisive musical experience was his relationship to Richard Wagner, to whom he was bound in servile obsequiousness and self-abasement. He took every kind of abuse and humiliation from the Bayreuth establishment in order to be close to the viciously anti-Semitic Wagner; and, having become the most talented expositor of Wagner's works, he let himself be persuaded, despite the humiliations to which he had been subjected, to conduct the premiere of Wagner's most "Christian" opera, *Parsifal*. Interestingly enough, as Gay points out, Levi, though hungry for acceptance, resisted Wagner's pressure to convert. But his unmatched mastery of the Wagnerian repertoire and its acknowledgment by Wagner gave him the compensatory inner stability and external recognition that he craved.

This summary cannot do justice to the richness of detail and argument which Gay presents. However, the book also shows, once again, that there is a certain hazard in the publication of a collection of essays written at different times and for different occasions. They may be revealing not only in what they contain but in what they omit by their occasionalism. In

his discussion of Jewish aspects and issues, Gay deals primarily with the psycho- and socio-pathological responses of Jews to their condition and experiences in Germany. These are important, not only for an understanding of the German-Jewish era in Jewish life, but of Jewish pathology wherever it exists—including the United States—and not only in the past but in the present as well. But he says only half of what has to be said. His focus disregards the fact that the German-Jewish community possessed an extra-ordinary amount of Jewish creativity. I do not mean to say or imply that German Jews were all fine human beings, great scholars, superb intellects, or deeply committed Jews. Many were; many others were not. The whole range of attitudes described by Gay did, of course, exist, and he is quite right when he declares with a measure of asperity that “there is a historical and sociological study that desperately needs to be undertaken: that of stupid Jews.” But no matter how brilliantly the story is told, it is poorly told if it disregards the fact that the century before Hitler was a unique chapter in Jewish history—a period of incredible vitality, creativity and intellectual ferment in German-Jewish life. In this brief span, German-speaking Jewry became the seed-bed of the most significant movements affirming the viability and continuing validity of Jewish life in the face of the tensions and challenges involved in the Jewish encounter with the cultural, social forces of modernity—Neo-Orthodoxy, which is still being nourished by the spirit of Frankfort in its efforts to harmonize strict adherence to Jewish tradition with modern culture; Reform Judaism, which cannot be understood without its German roots; Conservative Judaism, which received its formative impulses from the men at the Breslau Seminary; Zionism, which, more than Gay is prepared to concede, was not just a peripheral phenomenon in Germany but an authentic response to the inner and outer dislocations produced by the Jewish condition; and, above all, the *Wissenschaft des Judentums*, the scholarly study of Judaism as a legitimate academic discipline. No history of the Jewish intellectual effort can ignore the products of this *Wissenschaft* which, in the words of Salman Rubaschoff (latter known as Zalman Shazar), “is the most important gift which German Judaism has made to the whole of Jewry.”<sup>7</sup> Notwithstanding an identification with Germany that was often as passionate as it was uncritical, there was a strong and equally passionate identification with Judaism, which a balanced assessment must not bypass.

Nor can the fact be ignored that most German Jews not only did not desert but, on the contrary, developed vigorous strategies and action programs to counter prejudice. They banded together in defense agencies, most prominent among them the *Centralverein deutscher Staatsbürger juedischen Glaubens* (Central Organization of German Citizens of the

7. S. Rubaschoff, *Der jüdische Wille*, I, (Berlin: 1918), p. 32, as quoted by Kurt Wilhelm, *Wissenschaft des Judentums im deutschen Sprachbereich*, (Tübingen: 1967), I, p. 58.

Jewish Faith), founded in 1893 to "unite German citizens of the Jewish faith for the defense of their political and social equality and to strengthen their undeviating loyalty to Germany." With the hindsight of more than years, one may smile about this formulation and its motivations. But they did their work with a measure of success. They refused to rely on a strategy of silence or concealment. They served notice that they were prepared to fight for their rights, and they did. They invoked the courts against anti-Semitic slander, openly fought anti-Semitic candidates during election campaigns, produced and distributed vast amount of material designed to create a better understanding of Jewish life and thought. Above all, they developed institutions and programs to nourish Jewish knowledge and self-understanding. They sought neither to hide nor to escape. They failed, not because they lacked courage or the perception of their condition, but because they were overwhelmed by forces which they, together with much of the world, were helpless to resist.

Consideration of these facets would have eliminated the onesidedness of Gay's approach. Nevertheless, in the area which he covers, Gay's impressive scholarship paints an immensely enlightening and provocative picture of the German spirit and of the complexities and predicaments of Jewish life in Germany in the late nineteenth and early twentieth centuries. Most importantly, the implications of the German experience for us in the United States seem clear.

## More Light on Job

*The Book of Job: Commentary, New Translation and Special Studies.* By ROBERT GORDIS. (Vol. II, Moreshet Series). New York. The Jewish Theological Seminary, 1978. xxxiii+602. \$25.00.

Reviewed by BREVARD S. CHILDS

THE APPEARANCE of Robert Gordis' commentary on Job climaxes a lifetime of research—which extends well over forty years—on this Biblical book. Many of his scholarly papers have recently been collected into two volumes, *Poets, Prophets and Sages* (1971) and *The Word and the Book* (1976). In addition, an extensive treatment of Job dealing with such problems of Introduction as date, authorship, language and literary form, appeared in 1965 under the title *The Book of God and Man—A Study of Job*. This latest work offers a detailed textual and philological commentary on the Hebrew text, and provides the foundation on which many of Gordis' interpretations rest.

An examination of the volume's format reveals the range of the commentary. An initial Introduction handles the various issues of critical methodology, the book's structure and style, and the author's evaluation of the book's contribution within the history of scholarship. The major portion of the work consists of detailed commentary. Each chapter is introduced by a succinct summary of its contents and a few broad interpretive lines are drawn. There follows a fresh English translation of the Hebrew text, and both are printed on adjoining pages. The commentary proceeds verse by verse. Finally, there are included 42 separate studies of the language, structure, and contents of the book. A selective bibliography is appended, along with several indices.

The publishers are to be congratulated on the decision to put out the commentary with Hebrew script instead of the usual, less costly transliteration. The Hebrew text of Snaith's edition is beautifully printed, as are the thousands of pointed Hebrew words used throughout the commentary. The result is that the technical discussion is far more easily followed because the text is immediately at hand. The accuracy of both the Hebrew and English text throughout the commentary is noteworthy.

In the light of the many already available commentaries on the Book of Job, the primary question arises in determining where the contribution of this volume lies. In my judgment, it is undoubtedly in the meticulous and enormously learned analysis of the Biblical text, often word by word, in the context of the whole Hebrew canon and in its post-Biblical resonance. Of course, Gordis makes ample use of extra-Biblical, ancient Near Eastern material, as any modern commentary must, but with great care and discernment. At the outset, he makes the pertinent point that mechanically adducing parallels (p. 79) usually serves to obscure rather than to illuminate a Biblical text. His method is, therefore, first to present an exhaustive study of all of the inner-Biblical parallels, and then to make judicious use of comparative philological and literary material which stands in close: cultural proximity to the Bible. Gordis seldom polemicizes against Dahood, but the methodological differences are everywhere implicit.

The reader is repeatedly impressed with the care with which the Masoretic textual traditions are handled. This evaluation is not to suggest that Gordis uncritically accepts the traditional text, but that he takes both consonants and vowels extremely seriously, resorting to emendation only as a last step. In



the great majority of cases within the Book of Job, Gordis is able to mount an impressive case for retaining the Masoretic text, and he often demonstrates that the grounds for suggested emendations rest on a misunderstanding of the Hebrew.

Of course, much of the effort of the commentary goes into offering a fresh analysis of philological and syntactical problems. Occasionally, the author appeals to unrecognized homonyms, to rhetorical features, or he makes reference to less frequent syntactical usages, such as the emphatic *lamed* or the asservative *kaph*. But, above all, it is the continual illumination of the peculiar Hebrew idiom which renders the commentary invaluable (e.g., p. 76). Gordis' method of outlining the previously suggested solutions to any given problem before offering his own allows the reader more easily to judge the success of his new proposal (cf. p. 20).

Throughout the commentary there is close attention given to literary features of the book. Not only is the poetic structure carefully analyzed, but the use of irony and veiled humor is brought out both in the translation and commentary. Gordis' own humor creeps in with such comments as: "It may be noted that we have a Jewish Satan here, who answers a question by a question!" (p. 15).

Another interesting and quite unusual feature of the author's method is the appeal to classic English literature as a means of interpreting the Hebrew text. Gordis is

aware of the dangers of using parallels from different culture spheres, but he often is able to find an exact analogue in Elizabethan English, such as the idiom "to bear someone in hand" with the meaning "to deceive" (p. 137). Similarly, he argues that the variations within the different parts of Goethe's *Faust* are larger than the stylistic ones between the Elihu speeches and the rest of Job (p. 549).

It is impossible to survey briefly the wealth of material in the separate studies. The discussion of the theories of strophes and meter is of special interest in the light of the current debate. The defense of the book's basic unity—against recent attempts to emphasize its disunity—is vigorously carried out. Several of the studies treat the broader ethical and theological problems within the book, and, therefore, supplement the discussions in Gordis' other volumes.

In sum, the commentary is a fruitful product of years of study and reflection which will be a standard work for present and future generations. It should be read along with the author's fuller treatment of the religious and literary issues in the *Book of God and Man*. For the serious student of the Bible who is interested in wrestling primarily with the meaning of the Hebrew text itself, the commentary will remain an inexhaustible resource.

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## The Way of Integration

*Maimonides: Torah and Philosophic Quest.* By DAVID HARTMAN. Philadelphia. Jewish Publication Society of America, 1976. \$7.95.

Reviewed by DAVID SHATZ

ANYONE FAMILIAR with the personal and intellectual biography of Moses Maimonides is likely to be awed, as well as profoundly intrigued, by his remarkable combination of achievements as halakhist and philosopher. On the one hand a devotee of Aristotelianism, author of the most illustrious Jewish philosophical work of the Middle Ages, he was, on the other hand, "the Rambam": compiler of a pioneering code of Jewish law, writer of Talmudic commentaries and *teshuvot*, and a leader who was intensely involved in the religious affairs of the Jewish community. This double preeminence not only testifies to the man's genius: it has also been, for centuries, the focus of a deep and fascinating scholarly controversy over the true character of his thought. Through the years his interpreters have asked: how does Maimonides conceive the relationship between Judaism and philosophy? What connection obtains between his legal and philosophic writings? Many have doubted that he could have justly conceived "the way of Jerusalem" and "the way of Athens" as anything but antithetical; and one influential school has even argued that the proper approach to Maimonides' works must begin from a startling premise: that the author himself recognized at least certain aspects of this incompatibility.

Prof. Hartman's objective is to refute this understanding of Maimonides as a "dualist" and to establish, instead, that, confronted by a system of philosophy which

seemed antagonistic to Jewish law and tradition, Maimonides strove for and achieved a genuine synthesis—he "chose the way of integration." This reconstruction of the thought of Maimonides unfolds in a presentation which is extensively researched, absorbingly written, and studded with striking and cogent interpretive insights. Although the integrationist approach is hardly new, and some of Hartman's supporting arguments are credited to antecedents in the literature, this study clearly ranks as an important and, in some respects, outstanding contemporary contribution to Maimonidean scholarship. Indirectly, the work merits attention as well for its implicit but unmistakable sympathy with the religious outlook of the man whom it portrays, and for its effort at exhibiting that very controversial outlook as one of perennial significance for the believing and practicing Jew.

However, the persuasiveness of *Torah and Philosophic Quest* is limited somewhat by the sheer complexity of the problem that it proposes to resolve. One scholar has written of it that "not only is there no scholarly consensus concerning its solution but the very nature of the problem is conceived in a variety of ways." While Hartman's initial statement of dualism is sensitive to these complexities, he sometimes does not follow through with a discussion of the very issues that he raises. In what follows, I hope to clarify this assessment by specifying the respects in which Hartman proves his case, and the respects in which his argument needs further elaboration or defense.

Hartman identifies several ostensible conflicts between Judaism and philosophy as motivating the contention that Maimonides was a dualist. Most obvious among these

is the apparent logical incompatibility between the cognitive metaphysical claims of Jewish tradition and those of the philosophers. Hartman tends to concentrate, however, on a theme which has been brought into increased prominence through the researches of Leo Strauss and others in this century: the tensions between philosophic excellence and halakhic commitment. Philosophy assigns supremacy to the *vita contemplativa*; Judaism values the *vita activa* of halakhah. Philosophy highlights individual excellence; halakhah prescribes communal identification and involvement. Philosophic excellence demands the cultivation of a critical, autonomous intellect; halakhic commitment requires a posture of submissiveness and obedience to authority. Philosophy generates its conclusions by applying universally intelligible standards; halakhah validates its teachings by appeal to a particular tradition.

For a dualist, the existence of these tensions dictates that halakhic observance can bear no intrinsic connection to the contemplative ideal. Some take Maimonides to have been (blissfully) unaware of this difficulty; others, however, such as Strauss, make his awareness of it the cornerstone of their interpretation of his thought. On their view,\* Maimonides conferred primacy on theoretical virtue, and delegated to halakhah an instrumental political function. Halakhah ensures the political order and stability which aid the philosopher in his quest for intellectual perfection; it rules the many so that the few can flourish. The tradition, to be sure, incorporates

cognitive claims as well—the belief in providence, for example—but these are “myths,” propagated because they serve to motivate the masses to obedience. And while the philosopher, too, obeys the law, and is mindful to suppress in public his opposition to the naive religious doctrines held by the masses, this is only because, by doing so, he minimizes discord between himself and the community and, in that way, facilitates his theoretical pursuits.

To this school of interpreters, Maimonides’ works neatly reflect the fragmentation of action and thought: his legal writings are radically distinct in orientation and substance from his philosophic opus, the *Guide of the Perplexed*. Addressed principally to the masses, the legal writings impart prescriptions for belief and action which are requisite for social order, and while they seek, prudently, to legitimate the philosopher’s enterprise from the point-of-view of Jewish law, they offer only a meager, deliberately misstated version of Maimonides’ true opinions. Those opinions—frequently radical—are to be found only in the *Guide*, which is directed at the elite; and even there they are veiled (stated “esoterically”) rather than explicit so as to prevent their consumption by an ignorant public.

As against the dualist approach, Hartman argues that, for Maimonides, there is a profound and pervasive penetration between halakhah and philosophy; a life occupied in the study and practice of halakhah enriches, and is enriched by, the contemplative life. Halakhah structures a communal way of life which guides man towards knowledge of God, and, ultimately, to the intellectual love of God which is man’s highest perfection. Philosophic knowledge, on its part, effects a transformation in the motivation for, and character

\* Whether Hartman’s summary of Strauss is accurate in every detail is questionable, in part because Strauss himself is not always clear or consistent. Nevertheless, I paraphrase Hartman below.

of, one's observance. It directs the spiritually gifted individual from a performance motivated by *yirah* (here, self-interest) to one motivated by *ahavah* (disinterested love of God), and inspires him to go beyond minimal requirements of the halakhah. The philosopher-halakhist, in "imitation of the God of creation," will consistently act *lifnim mi-shurat ha-din*, and will aspire to "acknowledge Him in all your ways," not only in situations governed by a precise legal injunction. Theoretical knowledge profoundly affects practice: "different orientations to Halakhah are a function of different conceptions of God" (p. 205).

Thus, while halakhah primarily, educates and rules the community, it is also hospitable to, and even encourages, the quest for individual excellence. Furthermore, Hartman believes, the interaction of halakhah and philosophy which he has depicted forges a continuity of purpose between Maimonides' legal and philosophic writings: both are to be perceived as means by which Maimonides, with his "love for community," sought to elevate the spiritual orientation of his readers from *yirah* to *ahavah*. The *Mishneh Torah* code, for example, is shot through with an undisguised appreciation of, and insistence on, the relevance of philosophy to Jewish belief and practice (pp. 48-54). By thus displaying Torah as "an integrated system of norms and philosophy" (p. 54) and initiating the process of philosophic knowledge for all Jews, Maimonides strives to produce "a change in the way the whole community understands the halakhic path to God" (p. 48). As for the *Guide*, Hartman feels that the standard account, according to which the work is wholly a response to the religiously perplexed individual faced with a conflict between Judaism and philosophy, leaves out

an important dimension: love of God can result only from philosophic understanding of God, and so Maimonides guides his gifted reader along the path leading to the way of the philosopher-halakhist (pp. 100-101; p. 236, n. 74).

Hartman's underlying theses—that, according to Maimonides, the philosopher grasps a deeper purpose to halakhah, that this apprehension exerts a definite influence on his activity, and that Maimonides labored to make all Jews cultivate a comprehending attitude to doctrinal and legal aspects of their tradition—are firmly and convincingly established by the end of the book. Hartman is especially adept at tapping the spiritual dimensions of Maimonides' legal statements and at interweaving parallel or mutually illuminating passages from legal and philosophical material; he thus repeatedly augments the evidence for his contention that the legal writings are invested with philosophical significance and reflect the same basic concerns as the *Guide*.

Nevertheless, the book has its faults. Some of these have to do with Hartman's interpretation of specific passages or terms, or with isolated points which he makes along the way. Insofar as these problems do not impair his main line of argument, I pass over them here. More serious, however, is the fact that Hartman does not provide the comprehensive critique of dualism that he leads us to expect. On the contrary, certain crucial issues, which are identified by him when he first characterizes the dualist position, are either not addressed with clarity and rigor in the rest of the work, or are ignored entirely.

Consider, first of all, the dualist interpreter's allegation that there are substantive discrepancies be-

tween pronouncements in the legal writings and positions which Maimonides explicitly, or by implication, adopts in the *Guide*. Hartman appears to vacillate between two approaches to this matter. In places, he emphasizes how bold Maimonides' pronouncements are in the legal writings (pp. 48–52), or stresses that, in the legal as well as the philosophic works, Maimonides displays a naturalistic tendency (chapter four, especially pp. 148–156). These discussions suggest an openness on the part of Maimonides in divulging his opinions and a unity between the writings on substantive issues. In other places, however, Hartman introduces the theory that, although Maimonides never hides his “supreme evaluation” of philosophy, he was sensitive to “stages of intellectual and spiritual growth which the student must undergo by himself before fully comprehending the path of spiritual excellence” (p. 42); like the rabbis, he was wary of the incapacity of the non-elite to grasp or accept certain truths (chapter two, especially p. 74). Since the rabbis are said to have been “circumspect” in discussing the higher levels of worship with those on a lower level (p. 74; cf. also pp. 37, 38, 78, 99), it is reasonable to think that, in Hartman's view, discrepancies obtain between the legal writings and the *Guide*. For, assuming, as he does ((pp. 28, 48), that these respective works are addressed to different readers, the conclusion that there are discrepancies flows naturally from the thesis that teachings must be adjusted to the student's level of understanding—and is one that Hartman appears to endorse (see below).

Now these two approaches to the relationship between the legal and philosophic writings—an assertion of unity and a version of “esotericism”—are not entirely in-

compatible, as it might coherently be maintained that Maimonides is open about some opinions in the legal writings yet reserved about others. But the uses to which Hartman puts the “levels” theory are rather puzzling, even inconsistent. In the same context in which he speaks of the need to be “circumspect” when discussing the higher levels of worship, we discover (as Prof. Lawrence Kaplan pointed out to me) that the highest level (the level of disinterested worship) is one which Hartman realizes is *openly* promoted in the *legal* writings. Again, in chapter four, Hartman tries to explain why the *Guide* advances historical explanations of *mizvot* (e.g. sacrifices) while the legal writings do not, and why the *Guide* explains some *hukkim* in terms of human nature while *Shemonah Perakim*, he says, sees *hukkim* as having “no connection with the nature of man” (p. 147). The drift of this chapter is to account for both divergences in terms of the differing “religious sensibilities” of the reader of the *Guide* and the reader of *Shemonah Perakim*. But, if an excessively liberal belief in miracles expresses the same “sensitivity” as does a conception of *hukkim* as divine fiat (pp. 148ff.), why does Maimonides, according to Hartman, seek to dispel the one in the legal writings, but caters to the other?

It should be noticed, moreover, that if Hartman does subscribe to the “levels theory” as an account of a significant range of discrepancies, then he concedes far more to the dualist approach than he realizes or makes explicit. Both his theory (if it is his theory) and that of the dualist interpreter (1) maintain that there are discrepancies and (2) trace these discrepancies to differing audiences. Hartman's theory does not separate law and philosophy but it does separate, to an extent, the philosophy of the legal

writings from the philosophy of the *Guide*. It is possible that the weight of this concession is not felt by Hartman because he associates the dualist approach with the view that Maimonides concealed certain opinions so as to escape personal persecution (pp. 23, 51, 53). But the persecution explanation, surely, is not an integral facet of the dualist interpretation. In fact, in his introduction to his translation of the *Guide* (p. lviii), Shlomo Pines—whom it would be strained not to classify as a dualist interpreter—makes a point of emphasizing, like Hartman, that while Maimonides does aim to conceal certain “secrets of the universe” from the unqualified, he is *not* primarily concerned with concealing the fact that he, Maimonides, holds these opinions.

This is not to say that Hartman’s “levels” theory represents a thorough capitulation to the dualist. One distinctive feature of his account is the insistence that “the esoteric-exoteric distinction is not so much a function of truth as opposed to falsity, as it is a perceptive understanding of levels of worship” (p. 76). For example (p. 80), although one who is on a higher level of worship is not *motivated* by promises of reward and threats of punishment, the belief that there is reward and punishment, which motivates people of lower spiritual capacities, is a true one. Ascending to a higher level does not necessarily involve rejecting one’s earlier beliefs, but may involve reducing, or even eradicating, the role which those beliefs play in motivating behavior. But while Hartman is right that the true/false distinction does not exhaust the esoteric/exoteric distinction or the differences which Maimonides perceives among levels of religious worship, his example does not preclude our finding *some* esoteric teachings which bear to the corresponding

exoteric teaching the relation of the true to the false. Indeed, Hartman himself hints (e.g., p. 149) that a higher-level understanding of *how* reward and punishment operate involves a denial of the lower-level understanding of that doctrine. In the light of Hartman’s avowed aims, it is regrettable that the subject of alleged discrepancies between the legal and philosophic writings does not receive a fuller, more analytical exploration.

Hartman also alludes to the question of esotericism in the *Guide* (p. 24). In his introduction to the work, Maimonides cautions that he has intentionally obfuscated discussions and placed contradictions in the text so as, for one thing, to obscure certain opinions; consequently, to take statements in the *Guide* at face value, without determining their degree of coherence with other statements, is to defy the author’s explicit instructions as to how his book should be read. Oddly, Hartman recognizes that esotericist interpretations of the *Guide*—which, incidentally, long antedate Strauss—play a large role in dualist approaches, yet he relies on face-value interpretations even where Maimonides is most elusive and enigmatic. For instance, in seeking to refute the contention that halakhah requires unthinking obedience while philosophy pays no allegiance to authority—a refutation which occupies all of chapter three—Hartman cites various statements by Maimonides which suggest that prophecy delivers truths that are not accessible to philosophy. The trouble is that many commentators have argued that the relevant statements do not cohere with others in the *Guide*; whether, in these instances, Maimonides’ stated view is his real view has, therefore, become an important raging issue in Maimonidean scholarship. That the esoteri-



cist reading may be unwarranted is beside the point; the point is that, advertised as a reply to the dualist approach, this section fails to execute its announced task, because it ignores an issue which Hartman himself presents as part of that approach.

Nowhere, in fact, do we find a serious treatment of esotericism: the methodological principles in Maimonides' introduction are not even mentioned. A particularly disturbing result of this omission is that it renders Hartman's free use of the concepts "knowledge of God" and "intellectual perfection" badly in need of clarification, since, e.g., Maimonides denies that we can attain positive knowledge of God and implies that the science of physics is only partly accessible to man. (These points are raised by Pines in—strangely enough—the foreword to the book. They affect the dualist as well.) Hartman's scant references to such difficulties in his notes do not do justice to their vastness.

In saying all this I am not saying that any of Hartman's assumptions or contentions are *wrong*; least of all am I endorsing any specific readings advocated by Strauss, whose later writings, in particular, illustrate the potential for undisciplined application of the esotericist method. But I am saying that Hartman's methodology begs an important issue that is raised by the dualist and leaves us altogether baffled as to what passages Maimonides was referring to in his introduction, let alone how they are to be approached.

These shortcomings point up two overall weaknesses in the structure of *Torah and Philosophic Quest*. One is that Hartman approaches the study of Maimonides' views on the relationship between Judaism and philosophy without attending to exegetical issues pertinent to de-

termining just what *philosophical* positions Maimonides actually held. The second, and related, weakness is that he embeds his interpretation in the context of a polemic against dualism. This mode of presentation turns out to be extremely misleading, not only because we then expect certain issues to be handled which really are not, but also because it masks significant areas of agreement between Hartman and those whom he attacks. Thus, Hartman concedes the primacy of thought over action (see especially p. 202) and of aggadah (philosophy) over halakhah (chapter one), even though he does challenge attempts at radical separation; and, as seen earlier, he may distinguish the philosophy of the legal writings from that of the *Guide*. Furthermore, positions which Hartman implies are distinctive of integrationism are actually held by many dualists as well. Maimonides' use of nonliteral interpretations of aggadah as a means of uncovering philosophic truths within the tradition (cf., e.g., pp. 15–20) is not really alien to dualist approaches. Nor do dualists ignore the fact that the contemplative life is to be rounded off by practical activity; quite the contrary, the core of Hartman's interpretation of *imitatio dei* (chapter five) is shared by Pines, notwithstanding differences between them as to whether this applies to the activity of the legislator or to the individual practice of the philosopher-halakhist (p. 263, n. 53).

To some readers, interest in fine details of the scholarly dispute will be subordinate to interest in the religious philosophy of Maimonideanism, as Hartman portrays it. Such readers will no doubt direct their attention to the controversial features of that philosophy: its convictions that "religious immediacy" can be nurtured through



philosophic study (chapter four), and, indeed, that the highest levels of religious worship can be attained only by the elite who master science and philosophy: prophets and sages "consummated their love of God in 'non-Jewish' domains of knowledge" (p. 52). Because Hartman takes his interpretive task as primary, his apparent commendation of these features is not given much defense, and in places sounds glib; he also, I think, misses some aspects of Maimonides' particularism which make his thought more ridden by tension than the book indicates. In short, still more needs to be done if a full-dress integrationist approach to Maimonides is to be established, or if Hartman's philosophy of Judaism is to win a wide following. Nevertheless, *Torah and Philosophic Quest* is so engrossing, so perceptive, and so provocative a blend of scholarship and theology, that no one interested in either Jewish intellectual history or religious thought should fail to give it a careful and reflective reading.

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